DOCUMENT RESUME

ED 107 417 RC 008 545

AUTHOR	Buto, Kathleen A.; And Others
TITLE	A Better Chance to Learn: Bilingual-Bicultural Education. Clearinghouse Publication No. 51.
INSTITUTION	Commission on Civil Rights, Washington, D.C.
REPORT NO	CCR-Pub-51
PUB DATE	May 75
NOTE	262p.
EDRS PRICE	MF-$0.76 HC-$13.32 PLUS POSTAGE
DESCRIPTORS	American Indians; Biculturalism; *Bilingual Education; Civil Rights; Comparative Analysis; *Educational Assessment; Educational Legislation; *English (Second Language); *Equal Education; History; Mexican Americans; *Minority Groups; Non English Speaking; Program Descriptions; Program Evaluation
IDENTIFIERS	English Speaking

ABSTRACT

School districts are compelled by the 1964 Civil Rights Act Title VI to provide special language programs for those children speaking a non-English native language and belonging to an identifiable minority group, generally of low socioeconomic status, including Mexican Americans, Native Americans, Puerto Ricans, and Asian Americans. The form such assistance should take is the subject of debate among educators, concerned language minority parents, and others. The most widely discussed approach is bilingual bicultural education. In this report, the U.S. Commission on Civil Rights examines the extent to which this approach is an effective educational approach for increasing these students' opportunities. Due to the commission's civil rights jurisdiction, the report concentrates primarily on bilingual bicultural education as a means for overcoming a denial of equal educational opportunity. For comparative purposes, the English as a Second Language (ESL) approach which for many years has been the only special program used to teach these students English is examined. Educational principles underlying bilingual bicultural education are discussed. To clarify what bilingual bicultural programs are and how they work, selected programs are described. Information is provided on evaluation procedures for such programs. Federal and State policy on bilingual education is also discussed. (NQ)

ED107417

A Better Chance to Learn: Bilingual-Bicultural Education

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION
THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

RECEIVED
JUN 12 1975
NMSU
E.R.I.C.

United States Commission
on Civil Rights
Clearinghouse
Publication 51
May 1975

U.S. COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is a temporary, independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;

- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;

- Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;

- Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and

- Submit reports, findings, and recommendations to the President and Congress.

This report has been prepared to provide educators and the general public with information about bilingual bicultural education as a means for equalizing educational opportunity for language minority students. The information and basic conclusion contained herein have been reviewed and approved by the Commission.

MEMBERS OF THE COMMISSION

Arthur S. Flemming, Chairman
Stephen Horn, Vice Chairman
Frankie M. Freeman
Robert S. Rankin
Manuel Ruiz, Jr.
Murray Saltzman

John A. Buggs, Staff Director

ACKNOWLEDGMENTS

The Commission is indebted to Kathleen A. Buto, project director, who along with staff members Olga Garcia Harper, Rosa N. Morales, and Jane R. O'Connell wrote this report.

Appreciation is also extended to the following staff members and former staff members who provided support and assistance in the production of this report: *Doris O. Chambers, Martha B. Grey, *Helene Pepe, *Gary Tom, and Mary Watson.

Special assistance also was provided by Cecilia E. Cosca, Jack Hartog, and Gregg B. Jackson. The Commission is also indebted to Dr. Muriel Saville-Troike and staff of the Center for Applied Linguistics for contributing valuable time, resources, and expertise toward the completion of this report.

The report was prepared under the overall supervision of John Hope III, Assistant Staff Director, Office of Program and Policy Review.

*No longer with the Commission

TABLE OF CONTENTS

Page

INTRODUCTION 1

CHAPTER 1 HISTORICAL OVERVIEW OF LANGUAGE MINORITIES AND EDUCATION 5

BEFORE 1920 5
THE NEED TODAY 10

CHAPTER 2 LANGUAGE MINORITY STUDENTS AND EQUAL EDUCATIONAL OPPORTUNITY 22

ENGLISH AS A SECOND LANGUAGE (ESL) 22
BILINGUAL BICULTURAL EDUCATION 29

Self Concept 30
Cognitive and Language Development 41
Culture and Learning 47
Reading Skills Development 48
English Skills Development 56

Systematic Approach to Second Language Teaching 57
Attitudes 59

RESEARCH ON BILINGUALISM AND BILINGUAL BICULTURAL EDUCATION 61

Bilingualism, Intelligence, and Identity... 64

Language Dominance and Ability 64
Cultural and Socioeconomic Background 67

Monolingual Education vs. Bilingual Bicultural Education 69

USAGE OF BILINGUAL BICULTURAL AND ESL APPROACHES 78

CHAPTER 3 BILINGUAL BICULTURAL EDUCATION AND PROGRAM STRUCTURES 84

Page

DESCRIPTIONS OF BILINGUAL BICULTURAL EDUCATION PROGRAMS 85

- Basic Design 85
- Instruction 88
- Teachers and Training 93
- Student Grouping 95
- Curriculum Content and Materials 96
- Parent and Community Participation 98

EVALUATION OF BILINGUAL BICULTURAL PROGRAMS ... 103

- Preprogram Assessment 105
  - Language Skills 106
  - Entry Level Skills, Subject Matter Mastery, and Interests 113
  - Attitudes 116
  - Social Factors 118
  - Resources 119
- Process Evaluation 120
  - Student Progress 121
  - Program Implementation 123
- Outcome Evaluation 127
- Areas Needing Further Research and Development 129
  - Evaluation Instruments 129
  - Other Areas 131

CONCLUSION 137

APPENDICES 142

A. CONSTITUTIONALITY OF THE RIGHT TO EQUAL EDUCATIONAL OPPORTUNITY 142

B. FEDERAL POLICY ON BILINGUAL EDUCATION 171

1. The Bilingual Education Acts of 1968 and 1974 180

Page

2. The Equal Educational Opportunity Act of 1974 196
3. Memorandum of May 25, 1970, Concerning Identification of Discrimination and Denial of Services on the Basis of National Origin .. 204
4. Supreme Court Decision in Lau v. Nichols 207

C. STATE POLICY ON BILINGUAL EDUCATION 213

1. Massachusetts Law of 1971 217
2. Texas Law of 1973 226
3. Illinois Law of 1973 233

D. REFERENCES 245

INTRODUCTION

No public institution has a greater or more direct impact on future opportunity than the school. Between the ages of 6 and 16, American children spend much of their time in school. Early educational success or failure dictates to a large extent a student's expectations for the future, including whether he or she will seek postsecondary education and thus have a wide range of economic options available following formal schooling. The importance of an equal opportunity to public education was underscored in the case of Brown v. Board of Education[1] and was followed in the 1960's by civil rights activity to end segregated schools. Similarly, much of the effort to overcome discrimination against limited or non-English speaking persons in the 1970's has been focused on schools.

The term "language minority" is used in this report to refer to persons in the United States who speak a non-English native language and who belong to an identifiable minority group of generally low socioeconomic status. Such language minority groups--including Mexican Americans, Puerto Ricans, Native Americans, and Asian Americans--have been subject to discrimination and limited opportunity. The emphasis given attainment of an education places them at a further disadvantage, since the public school does not appear to have met the needs of language minority groups.

---

[1] 347 U.S. 483 (1954). Finding that segregated schools are inherently unequal, the Supreme Court held that State laws compelling black students to be educated separately from white students are unconstitutional.

Not only have many language minority children been subject to segregated education, low teacher expectations, cultural incompatibility with dominant culture-oriented curricula, and the educational neglect experienced by minority children in general, many also face a unique and equally severe form of discrimination which results from lack of proficiency in the language of instruction. In January 1974, the Supreme Court affirmed in Lau v. Nichols[2] that school districts are compelled under Title VI of the Civil Rights Act of 1964[3] to provide children who speak little or no English with special language programs which will give them an equal opportunity to an education. The form such assistance should take is the subject of debate among educators, concerned language minority parents, and others.

There is little disagreement that learning English is essential to economic and social mobility in this monolingual English speaking society. The main controversy surrounds the issue of how language minority children can be taught English in a manner so that they do not fall so far behind in subject matter instruction that they cannot recover. Questions also have been raised concerning what methods are best for teaching English to language minority students; whether the learning of English alone will equalize educational opportunity and what role, if any, should be played by the native language and culture in the educational process.

---

[2] 414 U.S. 563 (1974).

[3] For a legal analysis of the constitutional basis for the right of language minority children to an equal educational opportunity, see appendix A.

Bilingual bicultural education is instruction using the native language and culture as a basis for learning subjects until second language skills have been developed sufficiently;[4] it is the most widely discussed of approaches to providing language minority children with an equal educational opportunity On the one hand, it has been hailed as a sound educational approach that overcomes the incompatibility between language minority students and the monolingual English public school. On the other, it has been criticized as failing to provide language minority students with sufficient English skills and as fostering ethnic separateness.

In this report, the Commission examines the extent to which bilingual bicultural education is an effective educational approach for increasing the opportunity of language minority students. In undertaking this study, the Commission assessed the educational principles behind bilingual bicultural education but did not analyze findings from existing bilingual bicultural programs, since few reliable evaluation data are available.

---

4. Some researchers and educators have defined bilingual bicultural education to be of broader scope, that is, to be a total educational approach for developing bilingualism in all American children and for nurturing the linguistic resources already possessed by language minorities. See Josue M. Gonzalez,"Growth Pains in Bilingual Bicultural Education since '66" Report of Bilingual Bicultural Institute, National Education Association Conference, Nov. 28 - Dec. 1, 1973. The Multi-Cultural, Multi-Racial Task Force on Bilingual/Bicultural Education of the National Education Association has endorsed the adoption of bilingual/multicultural education, which reflects the diverse American culture, to improve the educational opportunities of all children in this country. Report of the NEA Task Force on Bilingual/Bicultural Education, 53rd Representative Assembly of the National Education Association, July 2, 1974, p. 3.

Because of the Commission's civil rights jurisdiction, this report concentrates primarily on bilingual bicultural education as a means for overcoming a denial of equal educational opportunity. However, another valuable objective of bilingual bicultural education is the enrichment of the education of children of all socioeconomic levels and racial/ethnic groups through learning two languages and two cultures.

For purposes of comparison, this report first examines the English as a Second Language (ESL) approach which for many years has been the only special program utilized to teach English to language minority students. The educational principles underlying the bilingual approach are then discussed. Finally, to clarify what bilingual bicultural programs are and how they work, descriptions are given of selected bilingual bicultural education programs, and information is provided on evaluation procedures for such programs.

CHAPTER 1

AN HISTORICAL OVERVIEW OF LANGUAGE MINORITIES AND EDUCATION

BEFORE 1920

The United States has always had minority groups with different languages and cultures. In assessing the need for any special educational assistance for language minority students today, it is useful to analyze and compare the educational experiences of earlier non-English speaking groups.

From the mid-19th century to the beginning of the 20th, increasing numbers of immigrants came from Italy, Asia, Austria-Hungary, Russia, and the Balkans.[5] They were viewed as a threat to what was considered the traditional American lifestyle. Unlike the early 19th century immigrants from England, Germany, Holland, and other Protestant European countries, these immigrants were largely illiterate, spoke unfamiliar languages and dialects, and were of Catholic, Jewish, Eastern Orthodox, or Asian religious backgrounds.[6]

---

[5] Edward George Hartmann, The Movement to Americanize the Immigrant (New York: Columbia University Press, 1948). In 1875, 10 percent of all immigrants were from southern and eastern Europe, rising to 57 percent in 1896 and 76 percent in 1902.

[6] Hartmann, The Movement, p. 7. See also Andrew T. Kopan, "Melting Pot: Myth or Reality?" in Cultural Pluralism, ed. Edgar G. Epps (Berkeley, Calif.: McCutchan Publishing Corporation, 1974), p. 41.

Many Americans considered these new ethnic groups to be of inferior stock[7] and blamed them for such problems as unsanitary conditions in the cities, crime, and the need for charity. Some were concerned that immigrants from nondemocratic countries would foster radical political movements in the United States.[8] During the First World War, it was feared that immigrants would feel no loyalty or obligation to fight for the United States.[9]

Identified as outcasts, early language minority groups experienced hostility and open discrimination.[10] Violence and discrimination were perpetrated against the Italians during the decade of the 1890's, when at least 22 Italian immigrants were lynched and some Italian children were barred from attending "white" schools.[11] Jewish immigrants were excluded from employment, social groups, and organizations.[12]

---

[7] One of the most influential books on this subject was Madison Grant's The Passing of the Great Race in America (New York: Scribner's Sons, 1916).

[8] Andrew T. Kopan, "Melting Pot: Myth or Reality?" p. 43.

[9] Agnes Repplier, "Americanism," The Atlantic Monthly, March 1916, p. 293.

[10] Although English speaking, the Irish were also the targets of discrimination, since they were the first large and strongly cohesive group of Roman Catholics. In the 1840's many employers specified that "no Irish need apply." Some Irish schools were burned in Boston, Philadelphia, and New York, which had large concentrations of Irish. Oscar Handlin, Immigration as a Factor in American History (New York: Prentice-Hall, Inc. 1959), p. 179; and Kopan, "Melting Pot," pp. 40-41.

[11] Arrigo Petacco, Joe Petrosino (New York: Macmillan Co., 1974).

[12] Handlin, Immigration as a Factor, pp. 179-180.

Chinese and Japanese Americans were subject to employment discrimination and school segregation and were restricted from owning land.[13] Numerous anti-ethnic movements and organizations developed and pressure was applied to restrict immigration of these new ethnic groups.[14]

Both immigrant groups and the larger society tried to "melt" the overwhelming numbers of immigrants into American society by teaching them English.[15] These efforts focused on adult immigrants, who often sought assistance in fulfilling citizenship requirements. In addition, some factories provided English language classes for workers and citizenship information in pay envelopes in the native language of workers.[16]

---

13. Ibid., p. 173.

14. These included the American Protective Association (1887) and Immigration Restriction League (1894) formed for the purpose of lobbying to restrict immigration. The Ku Klux Klan (1920) directed hostility against Catholic and Jewish immigrants. These efforts influenced passage of such restrictive immigration legislation and treaties as the Chinese Exclusion Act (1882), the Gentlemen's Agreement (1908), which limited Japanese imigration; and immigration quotas (1920), which gave preference to immigrants from northern and western Europe. Kopan, "Melting Pot," p. 41, 42, 44; and Hartmann, The Movement, pp. 8, 20.

15. Cities like New York, Chicago, and Detroit set up special classes for language minority immigrants as part of night school programs. Many immigrant organizations provided assistance to members of their groups to facilitate adjustment to American society. In the 1890's, the Educational Alliance of New York City had a program to "educate" Jewish immigrants in the language and customs of the United States, and later the Society for Italian immigrants and the Polish National Alliance set up similar classes. In addition, the National Society of Colonial Dames of America followed suit. Between 1907 and 1912, the Young Men's Christian Association was responsible for teaching English to 55,000 immigrants in 130 cities and towns. In 1907, New Jersey passed a law providing for evening instruction in English and civics for immigrants. Hartmann, The Movement, pp. 24-27, 36.

16. Ibid., p. 128.

Although immigrant groups attempted to establish native language schools for their children,[17] the great majority of language minority children who were in school received no special consideration, despite their difficulty in learning English.[18] In 1903, a superintendent of a heavily Jewish district was appalled that a large number of language minority children applying to leave school for work could not read at fifth grade level in English.[19] Many schools enrolling immigrant children had higher truancy and dropout rates, lower achievement levels, and greater instances of grade repetition than schools with nonimmigrant populations.[20]

---

17. In Pennsylvania, the Germans had public school instruction in German for a brief period in the 1830's. In Cincinnati, Ohio, there was an uninterrupted period between 1840 and 1917 of bilingual German-English instruction in some schools with large German concentrations. Poles and Italians formed parochial schools to preserve their religious and cultural traditions. There was some bilingual instruction in Polish schools, and in some Italian schools instruction was given in English by a bilingual instructor. The Chinese and Japanese set up afternoon schools to teach the native language and heritage of their native countries to their children. Arnold H. Leibowitz, *Educational Policy and Political Acceptance--The Imposition of English as the Language of Instruction in American Schools* (Washington, D.C.: The Center for Applied Linguistics, 1970), pp. 179, 180, 191, 197; and Theodore Andersson and Mildred Boyer, *Bilingual Schooling in the United States*, 2 vols. (Austin, Tex.: Southwest Educational Development Laboratory, 1970), pp. 127, 141, 153.

18. Elwood P. Cubberley, *Public Education in the United States* (Cambridge, Mass.: Houghton Mifflin Co., 1919 revised 1934), p. 590.

19. Nicolaus Mills, "Community Schools: Irish, Italians, and Jews," *Society*, vol. 11, no. 3 (Mar/Apr 1974).

20. Italian children, for example, scored well below the norm in acquisition, organization, retention, and use of knowledge. This was attributed to the language handicap of the children. Kathryn Ewart Secota, "A Comparative Study of 100 Italian Children at the Six year Level," *Psychological Clinic*, vol. 16, (New York, 1925), The 1920 census reported that the foreign born had the highest proportion of 15-17 year olds out of school. Colin Greer, *Cobweb Attitudes* (New York: Columbia University Press, 1970), p. 5.

In 1920, inability to understand the language of instruction was recognized as the chief cause of these children's poor performance in school.[21] One Italian educator urged employment of teachers of Italian background in Italian schools to mitigate student feelings of inferiority and discouragement.[22] Deliquency among immigrant youth was attributed in part to these feelings of inferiority, since such feelings often resulted in contempt for parents because they spoke little English.[23]

Although school had adverse effects on language minority students, it played a relatively insignificant role in the lives of most Americans before 1920. High school was considered to be for the elite, who were to go on to college and professional careers.[24] The combined absence until the early 1900's of both child labor laws and compulsory school attendance laws meant that many children worked to supplement the family's earnings.[25] In fact, in some areas a significant proportion of immigrant children never

---

21. G.G. Ide, "Spoken Language an Essential Tool," The Psychological Clinic, May 1920, p. 219; Secota, "A Comparative Study"; and Carl C. Brigham, "Intelligence Tests of Immigrant Groups," Psychological Review, vol. 37, no. 2 (Mar. 1930), p. 165.

22. The Social Background of the Italo-American Child, (Leiden, Netherlands: Brill Co., 1967).

23. Hartmann, The Movement, p. 23.

24. In 1892, for example, less than 7 percent of children in the United States were in secondary schools. In 1900 only 6 percent of 17 year olds were high school graduates, as compared with 61 percent in 1961. Andreas M. Kazamias and Byron G. Massiales, Tradition and Change in Education: A Comparative Study (Englewood Cliffs, N.J.: 1965), p. 41, and Paul Goodman, "The Universal Trap," The School Dropout, Daniel Schreiber, ed. (Washington, D.C.: National Education Association, 1964), p. 41.

25. Greer, Cobweb Attitudes, p. 6.

enrolled in school.[26] The abundance of manual labor jobs which required no reading or writing skills in any language absorbed many school dropouts.[27]

THE NEED TODAY

Although the height of immigration has long since passed,[28] a large proportion of Americans still have a native language that is other than English. According to the 1970 census, 33.2 million Americans, or roughly 16 percent of the population, speak a language other than English as a native tongue.[29] Spanish, German, and Italian speakers are the most numerous, in that order. Spanish is the only one of the three which has experienced substantial growth in the number of speakers since 1940, largely owing to increased immigration from Latin America.[30]

---

[26] The California Commission of Immigration and Housing found in 1913, for example, that 18 percent of immigrant children were not enrolled in schools. Following the Commission's report, the names of newly arrived immigrant school aged children were sent to school authorities on a regular basis. Hartmann, The Movement, p. 80.

[27] In 1930, 28.9 percent of all workers were employed in manufacturing and mechanical industries and 21.4 percent in farming. U.S. Bureau of the Census, Department of Commerce, 1930 Census of Population, Occupations -- General Report, p. 74.

[28] Immigration reached its peak between 1901 and 1910, when 8,795,386 persons immigrated. In 1907, 1,285,349 immigrated, the largest number in a single year. U.S. Immigration and Naturalization Service, Department of Justice, 1973 Annual Report of Immigration and Naturalization, Table 13, Immigration by Country, for Decades 1820-1973.

[29] U.S. Bureau of the Census, Department of Commerce, PC(1)-C1, 1970 Census of Population: General Social and Economic Characteristics--United States Summary, June 1972, Tables 146, 147.

[30] Joshua A. Fishman, and John E. Hofman, "Mother Tongue and Nativity in the American Population," Language Loyalty in the United States, ed. Joshua A. Fishman. (The Hague: Mouton and Co., 1966), p. 45.

Although persons of Mexican origin are native to the Southwest, the number of Spanish speaking persons in this country has grown noticeably since 1920.[31] In the 1920's two factors contributed to a major influx of Mexican immigrants: a socially disruptive revolution in Mexico and the agricultural development of the Southwest United States and the subsequent need for labor.[32] Between 1920 and 1973, 1,480,887 or more than 60 percent of all Mexican immigrants came to the United States.[33]

Similarly, since 1920, Puerto Ricans have migrated in greater numbers, stimulated by the crowded living and bad economic conditions of Puerto Rico and the need in urban areas for low-paid, unskilled workers.[34] The Puerto Rican migration swelled from 7,000 in 1920 to 852,061 in 1970.[35]

Between 1920 and 1973, 215,778 Central Americans and 487,925 South Americans immigrated to this country.[36] By 1973, Spanish origin persons numbered 9,072,602 nationwide and constituted the second largest minority group in the United States at roughly 4.4 percent of the total American population.[37]

---

[31] North, Central, and South Americans were exempt from 1920 immigration quotas.

[32] Jane MacNab Christian and Chester C. Christian, Jr., "Spanish Language and Culture in the Southwest," Language Loyalty in the United States, p. 289, and Carey McWilliams, "North from Mexico" (New York: Greenwood Press, 1968).

[33] 1973 Annual Report of Immigration, Table 13.

[34] Nathan Glazer and Daniel Patrick Moynihan, Beyond the Melting Pot (Cambridge, Mass.: The M.I.T. Press and Harvard University Press, 1963), pp. 93-96.

[35] Ibid., p. 91.

[36] These data are not given separately for Cubans. Nevertheless, in recent years they have constituted a large immigrant group. In 1973 alone, 24,174 Cubans immigrated. 1973 Annual Report of Immigration, Tables 9 and 13.

Immigration continues to be a major source for increasing the size of American language minority communities. Asian groups, for example, have experienced rapid increases in size since restrictive legislation barring or limiting their entry was repealed.[38] In the less than 10 years since 1965, when all immigration quotas were liberalized, 654,736 or more than one-third of all Asian immigrants since 1820 have entered the United States.[39] In 1973 more Asians immigrated than any other group.[40] Other language minority groups, including Italians, Greeks, French Canadians, and Portuguese, have been part of a steady stream of language minorities coming to this country.[41]

---

[37] U.S. Bureau of the Census, Department of Commerce, PC(2)-1C, 1970 Census of Population: Subject Reports--Persons of Spanish Origin, June 1973, Table 1. Blacks are the largest minority in the U.S., numbering over 25 million persons and comprising 12.8 percent of the population. General Social and Economic Characteristics, p. 361. It should be noted that it appears that minority groups are undercounted by the Bureau of the Census and other Federal and State agencies. For a detailed discussion of this problem with respect to the Spanish speaking population see U.S. Commission on Civil Rights, Counting the Forgotten (1974).

[38] The Chinese Exclusion Act and an immigration law of 1908, which barred all immigration from Asia, were repealed in the 1940's, but Asian immigrants were placed on the quota system. Immigration from northern and western Europe was favored until 1965, when a new immigration law removed many of the old restrictions by giving the Eastern and Western Hemispheres allotments of 170,000 and 120,000 visas to be filled competitively. Eastern Hemisphere countries are limited to 20,000 visas apiece while there is no limit for Western Hemisphere countries.

[39] 1973 Annual Report of Immigration, Table 13.

[40] They numbered 107,628 as compared to 101,272 from Latin America. Ibid., Table 9.

The 1970 census estimates that 31 percent of the 760,572 Native Americans counted speak a Native American tongue as their first language.[42] Unlike the other groups, the survival of Native American languages is primarily the result of their continued use by existing groups and geographic isolation, rather than of replenishment through immigration.

Although precise data are not available on the numbers of limited or non-English speaking children currently in school, at the present time, the U.S. Office of Education estimates that at least 5 million need special language programs. The Census Bureau reports that 4.5 million Spanish speaking children under 20 years of age speak Spanish at home.[43] An estimated 259,830 Asian American children speak little or no English,[44] and some 56,493 Native American children speak a Native American language as a first language.[45]

---

[41] In 1973, 22,151 Italians, 10,751 Greeks, 10,751 Portuguese, and 6,600 Germans immigrated to the United States. 1973 Annual Report of Immigration, Table 9. Although the precise number of French Canadian immigrants cannot be determined since data are available only for Canadians as a group, more than 1 million Franco Americans claim French as a native language. Andersson and Boyer, Bilingual Schooling, p. 160.

[42] On reservations the figure rises to 58.2 percent of those counted. U.S. Bureau of the Census, Department of Commerce, 1970 Census of Population: Subject Reports--American Indians, Table 18.

[43] Subject Reports -- Persons of Spanish Origin.

[44] American Indians, Table 18.

[45] This figure is based on U.S. Immigration and Naturalization Service statistics on the population of Chinese, Japanese, Pilipino (the term "Pilipino" is used by the Commission instead of "Filipino" because it is used widely by Pilipino Americans), and Korean school-aged children. Of the 519,661 Asian school aged children (K-12) in 1973, over 50 percent were foreign-born. It is assumed that nearly all the foreign-born students have little or no English language skills. 1973 Annual Report on Immigration.

Unlike earlier non-English speaking children in this country, these children face an increasingly technical, skills-oriented society. There has been a shift in jobs from manual labor to skilled occupations.[46] Although there is no direct correlation between years of schooling and ability to perform many jobs, educational level has become one frequently employed means of differentiating job applicants from one another.[47]

Educators have known for many years that language minority children have difficulty succeeding in English monolingual schools. As early as 1930 it was documented that, in Texas, overageness and dropout rates were higher for Mexican American children than for either black or white students, and that most Mexican American children never progressed beyond third grade.[48] In addition, while approximately 95 percent of Anglo children[49] were enrolled in schools, only 50 percent of Mexican American children were.[50] The causes were considered at the time to include lack of English language knowledge, low socioeconomic status, and inaccurate measuring instruments.[51]

---

[46] As early as 1930, small shifts from manual to skilled occupations began to occur. Clerical, trade, and professional service occupations gained more than 2 percent in the percent distribution of the work force, while agriculture lost more than 11 percent in the distribution. U.S. Bureau of the Census, Department of Commerce, 1930 Census, Occupations, Table 2. Based on occupational trends of the 1960's, the Department of Labor predicts that by 1980 professional and technical workers will increase in numbers by 50 percent over figures for 1968; that service workers, except household, will experience a 45 percent increase; that clerical workers will increase by 35 percent; and sales persons by 30 percent. The only two occupations projected to lose workers by 1980 are farmworkers, by 33 percent over 1968 figures, and nonfarm laborers, by 2 percent. Manpower Administration, U.S. Department of Labor, Manpower, Feb. 1971, p. 6.

[47] S.M. Miller, "Dropouts--A Political Problem," The School Dropout, pp. 18, 19.

[48] Herschel T. Manuel, "The Education of Mexican American and Spanish-speaking children in Texas," (Austin, Tex.: University of Texas Fund for Research in the Social Sciences, 1930), pp. 93, 103, reprinted in Education and the Mexican American (New York: Arno Press, 1974).

[49] For purposes of this report, the term "Anglo" refers to native English speakers who do not belong to a racially identifiable language minority group.

Although some scattered attempts were made to improve the education of Mexican American children from 1920-1940,[52] no large scale effort was undertaken to alter the effects of education on them. A number of questions were raised about the education of non-English speaking children, including whether children would suffer less language handicap in school if first instruction in reading were in their native language.[53] In the 1940's one researcher called for action to be taken by the Texas Department of Education, teacher training institutions, and schools to better meet the needs of Spanish speaking students.[54] In 1946, the

---

50. Ibid., p. 96.

51. Ibid., p. 36.

52. As early as 1923, only the native language was used in the Tucson, Arizona, public schools in cases where there was no other way to communicate a lesson. In San Antonio, in 1929, Mexican American children helped develop curriculum materials based on their own background and experiences. In 1931 the Burbank, California, school system established a program to build Mexican American children's ability in English and their self confidence by starting them on group projects and gradually introducing subject areas in English. Some school systems explored the possibility of providing a portion of instruction to non-English speaking children in their native language. Ibid., pp. 123-124. U.S. Department of the Interior, Bulletin No. 11, "The Education of Spanish-speaking Children in Five Southwestern States," by Annie Reynolds (Washington, D.C.: U.S. Government Printing Office, 1933), as reprinted in Education and the Mexican American.

53. Manuel, "Education of Mexican and Spanish-speaking Children," p. 157.

54. Wilson Little, "Spanish-Speaking Children in Texas," The Mexican American (Austin: The University of Texas Press, 1944), pp. 66-70.

First Regional Conference on the Education of Spanish-speaking People in the Southwest was held in Austin, Texas. Recommendations included an end to segregated schools for Spanish speaking children, improved teacher training, and more efficiency in teaching English.[55]

That public education continued to neglect the needs of language minority students for another 20 years is evident in the fact that recommendations of the 1964 Orange County Conference on the Education of Spanish Speaking Children and Youth were almost identical to those developed 18 years before.[56] Nearly three decades after the First Regional Conference on the Education of Spanish-speaking People compiled information on the difficulties experienced by Mexican American students, the U.S. Commission on Civil Rights conducted a 5-year Mexican American education study. It revealed that problems of segregation, teacher training, and language difficulty are still severe for Mexican American students in the five Southwestern States. In addition, the Commission's State Advisory Committees have examined the problems of Puerto Ricans, Native Americans, and Asian Americans. All of these studies document the continuing failure of public schools to provide language minority children with a meaningful education.[57]

---

[55] Thomas P. Carter, Mexican Americans in School A History of Educational Neglect (New York: College Entrance Examination Board, 1970), p. 12.

[56] Conferees recommended an end to segregation of Spanish speaking students, development of teacher training programs, and improvement in the teaching of English, *Ibid*., p. 13.

Compared with the median number of 12.0 school years completed for whites, the median is 8.1 for Mexican Americans, 8.6 for Puerto Ricans, 9.8 for Native Americans, and 12.4 for Asian Americans.[58] The Commission's Mexican American Education Study shows that 40 percent of Mexican Americans who enter first grade never complete high school.[59] As of 1972, the drop-out rate for Puerto Ricans in New York City from 10th grade to graduation was 57 percent.[60] In New England, 25 percent of the Spanish speaking student population had been retained in grade for at least 3 years; 50 percent, for at least 2 years. Only 12 percent were found to be in the correct

---

57. U.S. Commission on Civil Rights, The Mexican American Education Study, Reports 1-6, Apr. 1971 - Feb. 1974; U.S. Commission on Civil Rights, The Southwest Indian Report, May 1973. El Boricua: The Puerto Rican Community in Bridgeport and New Haven, A report of the Connecticut State Advisory Committee to the United States Commission on Civil Rights, Jan. 1973; In Search of a Better Life--The Education and Housing Problems of Puerto Ricans in Philadelphia, a report of the Pennsylvania State Advisory Committee, Jan. 1974; Bilingual/Bicultural Education - A Privilege or a Right?, a report of Illinois State Advisory Committee, May 1974; Educational Neglect of Mexican American Students in the Lucia Mar Unified School District, Pismo Beach, California, a report of the California State Advisory Committee, Jan. 1973; The Schools of Guadalupe...A Legacy of Educational Oppression, a report of the California State Advisory Committee, Apr. 1973. Asians and Pacific Peoples: A Case of Mistaken Identity, a report of the California State Advisory Committee, Feb. 1975.

58. General Social and Economic Characteristics, Table 1; Persons of Spanish Origin, Table 4; American Indians, Table 3; PC(2)-1E, 1970 Census of Population: Subject Reports--Puerto Ricans in the United States, June 1973, Table 4; PC(2)-1F, 1970 Census of Population: Subject Reports--Japanese, Chinese, and Pilipinos in the United States, June 1973, Tables 3, 18, 33, 46, and 48. Median number of school years was not available for Asian Americans as a group. The figure given in the text is the average median of Chinese, Japanese, Filipino, Hawaiians, and Koreans.

59. U.S. Commission on Civil Rights, The Unfinished Education, Report 2, Mexican American Education Study, Oct. 1971, p. 11.

60. U.S. Commission on Civil Rights, Staff Report, Public Education for Puerto Rican Children in New York City, Feb. 1972 as appears in Hearing Before the U.S. Commission on Civil Rights, N.Y., February 14-15, 1972, p. 290.

grade for their age group.[61] The dropout rate for Native Americans in the Southwest between grades 9 and 12 is 30.6 percent.[62] For Navajos, the largest Native American tribe, the median educational level achieved is fifth grade.[63]

Academic achievement scores recorded for language minority groups in the 1966 Coleman report show that they lag significantly behind majority group Americans. By the 12th grade the Mexican American student is 4.1 years behind the national norm in math achievement; 3.5, in verbal ability; and 3.3, in reading. The Puerto Rican student is 4.8 years behind the national norm in math; 3.6, in verbal ability; and 3.2, in reading. The Asian American student is 0.9 years behind the norm in math; 1.6, in verbal ability; and 1.6, in reading.[64] Studies indicate that the longer language minority

---

61. New England Regional Council, Overview of the Problems encountered by New England's Spanish Speaking Population, Jul. 7, 1970, pp. 14-15.

62. U.S. Commission on Civil Rights, Southwest Indian Report, p. 25.

63. American Indians, Table 11.

64. James S. Coleman and others, Equality of Educational Opportunity, Office of Education, U.S. Department of Health, Education, and Welfare (Washington, D.C.: U.S. Government Printing Office, 1966).

students stay in school the further they fall behind their classmates in grade level achievements.[65] On tests of general information--including humanities, social sciences, and natural sciences--the median 12th grade score is 43.3 for Mexican Americans, 41.7 for Puerto Ricans, 44.7 for Native Americans, and 49.0 for Asian Americans as compared to a median score of 52.2 for whites.[66]

In the 1960's there was a growing recognition that language minority children needed some manner of special assistance if they were to have an opportunity to succeed in school. Where efforts were made to provide such assistance, they usually took the form of supplemental English language development, or what is commonly known as the English as a Second Language (ESL) approach.[67] In 1968, the Bilingual Education Act[68] provided funds to support a few bilingual programs, which were to use the children's native language and culture for instruction while they were learning English. Since 1971, Massachusetts, Texas, Illinois, and New Jersey have enacted mandatory bilingual education laws.[69]

---

[65] See U.S. Commission on Civil Rights, The Unfinished Education; The Southwest Indian Report; Bilingual/Bicultural Education - A Privilege or a Right? Coleman, Equality of Educational Opportunity. It should be noted that while these students' grade level achievement scores fall further behind their white counterparts with each succeeding year, there is little change in their percentile ranking as compared with other students. In other words, these students may be further behind the norm than they were at earlier grades, but those students who are ahead are further ahead of the norm, so the relative ranking remains about the same.

[66] Coleman, Equality of Educational Opportunity, p. 20.

[67] The Commission found, for example, that of approximately 50 percent of Mexican American students in the Southwest who need some form of language assistance, 5.5 percent were enrolled in ESL programs while 2.7 were in bilingual programs. The Excluded Student, Report 3, Mexican American Education Study, May 1972, pp. 22, 26.

[68] 20 U.S.C. 880b. Enacted Jan. 2, 1968, P.L. 90-247, Sec. 702. See Appendix B for a description and the text of this act and other Federal laws pertaining to bilingual education.

The first expression of Executive policy in the area of equal educational opportunity for language minority students came in 1970 when the Department of Health, Education, and Welfare (HEW) issued its May 25 Memorandum, which required federally-funded school districts to provide assistance for language minority children.[70] The memorandum indicated that failure to provide such assistance, where needed, would be considered a violation of Title VI of the Civil Rights Act of 1964.

In Lau v. Nichols, the Supreme Court affirmed that interpretation of Title VI's scope,[71] stating:

---

[69] See appendix C for a discussion of the texts of these laws.

[70] See appendix B for the text of this memorandum.

[71] The opinion states, in part,

> We do not reach the Equal Protection Clause argument which has been advanced but rely solely on §601 of the Civil Rights Act of 1964, 42 U.S.C. §2000(d) to reverse the Court of Appeals. 414 U.S. 563, 566 (1974).
>
> That section bans discrimination based 'on the grounds of race, color, or national origin,' in 'any program or activity receiving federal financial assistance.' The second district involved in this litigation receives large amounts of federal financial assistance. The Department of Health, Education, and Welfare (HEW), which has authority to promulgate regulations prohibiting discrimination in federally assisted school systems, 42 U.S.C. §2000d-1, in 1968 issued one guideline that 'school systems are responsible for assuring that students of a particular race, color, or national origin are not denied the opportunity to obtain the education generally obtained by other students in the system.' 33 Fed. Reg. 4956. In 1970 HEW made the guidelines more specific, requiring school districts that were federally funded 'to rectify the language deficiency in order to open' the instruction to students who had 'linguistic deficiencies,' 35 Fed. Reg. 11595.

Ibid., pp. 566-567. See appendix D for the text of this decision.

> Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, text books, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.
>
> Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.[72]
>
> ...It seems obvious that the Chinese-speaking minority receives less benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program...[73]

Both HEW and the Supreme Court declined to prescribe for school districts the type of assistance program which would provide language minority children with equal benefits in the attainment of an education, leaving the ultimate decision to the local districts themselves. Many school districts are faced with determining what constitutes that equality of educational opportunity. If we assume that the goal of public education is to provide basic skills and knowledge needed for participation in American society, then equal educational opportunity means that all students should have the same chance to acquire those skills and knowledge. In considering ESL and bilingual bicultural education--the two major approaches to meeting the needs of language minority children--it is important, therefore, to examine their overall potential for providing such an education.

---

[72] Ibid., p. 566.
[73] Ibid., p. 568.

CHAPTER 2

LANGUAGE MINORITY STUDENTS AND EQUAL EDUCATIONAL OPPORTUNITY

ENGLISH AS A SECOND LANGUAGE APPROACH (ESL)

Since limited English speaking ability is considered by many to be the primary cause for learning difficulty within the traditional curricular program, one approach used to provide language minority children with assistance is supplementary instruction in English.[74] Children have a natural predisposition to learn language which they retain through puberty.[75] However, they do not always successfully "pick up" a second language merely through casual experience[76] but often require formal second language training.

In a typical ESL program, children receive all subject area instruction in English but are "pulled out" of class for special English language skills training. Instruction time ranges anywhere from several hours a week to an hour a day, depending on the needs of the students and available school resources. Ideally, ESL replaces such courses as art, music, or physical education in the elementary grades. In junior high and high school it is substituted for English composition or literature.

---

74. Because the term ESL is used to describe a course designed to teach English skills, it is also a component of all bilingual bicultural programs. The term "ESL approach" is used to indicate the use of ESL instruction within a monolingual English curriculum. The methodology used for both can be identical, but the content of instruction will differ depending on the amount and type of English learning which takes place outside the ESL class.

75. Dan I. Slobin, Psycholinguistics, (Glenview, Ill.: Scott, Foresman & Co., 1971), p. 55.

76. Muriel Saville and Rudolph Troike, A Handbook of Bilingual Education, (Washington, D.C.: Teachers of English to Speakers of Other Languages, 1973), p. 49. Mary Finocchiaro, "Teaching English to Speakers of Other Languages: Problems and Priorities," The English Record, vol. 21, no. 4 (1971), pp. 39-47.

Training consists of formally learning the oral language skills of listening comprehension and speaking, which are the basis for acquiring the rules and patterns for combining sounds, forming words, and putting words together to convey meaning.[77] Because second language acquisition is a trial and error process, ESL training accelerates language learning by drawing attention to the rules and patterns and by providing the student with the opportunity for imitation and reinforcement. The student is aided in deducing the meanings of vocabulary items and grammatical patterns and their correct usage. The trial and error process is thereby minimized.[78]

In addition, formal training focuses on the elements of the language which cause the child the most difficulty. Spanish speakers, for example, may need assistance in using certain English prepositions. Spanish speakers are likely to say "in the table" when they mean "on the table" because the word, "en" is used in Spanish to mean both "in" and "on."

---

77. Language is essentially systematic. It consists of phonological (sound), morphological (words), syntactical (grammar), and suprasegmental (intonation, tones, pitch) patterns that can be predicted. Language learning consists of learning these patterns. It involves the internalization of the rules or patterns for comprehension and the automatic use of the patterns for speaking. See H. A. Gleason, An Introduction to Descriptive Linguistics, revised edition, (New York: Holt, Rinehart & Winston, 1966) and William G. Moulton, A Linguistic Guide to Language Learning, (Minasha, Wis .: George Banta Co., Inc., 1966.)

78. Without formal ESL training, a student would spend considerably more time in second language learning. In some situations, she or he may never adequately learn the language. The amount of exposure and practice would be limited to the extent of contact with speakers of the second language. The learning of vocabulary and grammatical patterns would depend specifically on how often he or she had heard the items and was able to use them. It would depend on how long it took the student, without assistance, to figure out meanings and correct usage.

Specific ESL methodology and techniques vary according to different theories of language learning[79] and according to the age of the students.[80] ESL is different from foreign language instruction,[81] since it is designed to meet the immediate communication and academic needs of the students by providing them with the language skills they need to communicate with teachers and peers and to receive content matter in English. ESL is designed to complement the practice and exposure to English students receive outside class. Material is therefore introduced in a concentrated form with less review and practice. ESL might include some training in reading and writing, although generally the students are expected to learn those skills within the regular language arts courses. This is one of the conceptual drawbacks of ESL pull out programs. English skills development does not follow in sequence the learning of the four language skills, listening comprehension, speaking, reading, and writing. Students are expected to learn to read English before they have mastered speaking.[82] Furthermore, reading texts are designed for native speakers of English rather than for second language learning.

---

[79] The two basic approaches to foreign and second language teaching in the United States today are based on two different assumptions about the process of language acquisition. The audio-lingual approach, based on research by the behavioral psychologist, B.F. Skinner, holds that language learning is habit formation. See Skinner, *Verbal Behavior*, (New York: Appelton-Century-Crofts, 1957). The other approach, cognitive code, based on research by the linguist, Noam Chomsky, holds that language learning is "an innate species - specific biologically determined behavior." See Chomsky, "Linguistic Theory," *Language Teaching Broader Contexts*, Northeast Conference on the Teaching of Foreign Languages, (New York: MLA Materials Center, 1966), pp. 43-49. Cognitive code holds that language learning is based on the learning of rules, and that it is a cognitive process. The audio-lingual method emphasizes rote learning and drilling. The method based on cognitive code theories emphasizes analysis and development of competence. There is a conscious learning of patterns and rules. Though these two methods appear to be mutually exclusive, they need not be. Many second language training programs combine the two. For a review of language learning theories, see Christina Bratt Paulston, *Implications of Language Learning Theory for Language Planning*, Papers in Applied Linguistics, Bilingual Education Series: I, (Arlington, Va.: Center For Applied Linguistics, 1975), pp. 13-14. For a discussion of how different theories can be the basis for one method see James W. Ney, "Towards a Synthetization of Teaching Methodologies for TESOL," *TESOL Quarterly*, vol. 7, no. 1, Mar. 1973, pp. 3-11.

[80] *Ibid*. p. 24. Students of different ages respond differently to different methods. Saville-Troike states that it is commonly accepted that children cannot be taught a second language by cognitive awareness of grammatical patterns and vocabulary. They must be stimulated to use the language in real situations. "TESOL Today: The Need for New Directions," (speech presented for the New York ESL Bilingual Education Association Convention, Syracuse, N.Y., Oct., 19, 1974), p. 2.

[81] The distinction between English as a Second Language and English as a Foreign Language was first made by Albert H. Marckwardt," English as a Second Language and English as a Foreign Language," *Publications of the Modern Language Association*, vol. 78, no. 2, 1963, pp. 25-28. For a discussion of ESL see Mary Finocchiaro, *Teaching English as a Second Language*, revised and enlarged, (New York: Harper & Row, 1969).

Though children in ESL pull out programs do experience retardation in subject matter until they learn English, the learning of the language itself may be enhanced through exposure and participation in subject matter instruction in English.[83] As the child is exposed to math, social studies, reading, and art, he or she is also exposed to the language used to communicate the content of those subjects.

---

[82] Although ESL methodology dictates the sequencing of skills (see Finocchiaro, Teaching English as A Second Language), children who learn ESL in pull out classes must follow the regular English curriculum along with their native English speaking peers. Thus, first graders are expected to learn to read and write English as they are learning to understand and speak English.

[83] It has been claimed that "Language Learning is most efficient when it is highly motivated by communication needs, and when it is a medium for meaningful content." Saville-Troike, "TESOL Today: The Need for New Directions." Christina Bratt Paulston states that "Unless a child understands and can use a language to communicate, he will not gain any proficiency in that language. There is general agreement that children's proficiency in their L_2 (second language) is directly related to the years it has been used as a medium of instruction in subject matters other than the language itself." Implications of Language Learning Theory for Language Planning, pp. 26-27.

In addition to the pull out system, the "intensive ESL approach" has been developed, although it has not been widely implemented. For students who already have some school experience, intensive ESL can take place during the summer, so that students are better prepared to receive full subject matter instruction in English when the academic year begins. However, since many students will not be able to completely master English during summer training, ESL pull out instruction should follow throughout the academic year.

For preschool children, intensive ESL usually is implemented during the regular school year. Children may, therefore, take the necessary time to learn English without the pressures of also learning math, reading, and social studies. In preschool programs, ESL instruction and activities are designed specifically for both language development and normal preschool teaching, such as singing, dancing, and reciting rhymes. Dramatization can be used, for example, to foster second language development through informal presentation of vocabulary and grammatical structures.

In intensive ESL, students are spoken to in English in order to immerse them totally in the language. The native language is used only occasionally to help the student adjust to school and to explain grammatical concepts. The intensive ESL approach is different from a monolingual English program in that all activities and instruction are geared to second language development.

Part of the criticism of ESL programs may be the result of poorly implemented programs or of inappropriate use of the ESL approach. The lack of trained ESL teachers and of ESL teachers trained in elementary or secondary education[84] affects the quality of instruction. Often, the English taught does not meet the immediate communication and academic needs of the students, because there is no integration or reinforcement between ESL and other subject matter instruction.[85] To overcome this drawback, one ESL specialist proposes ESL instruction which is incorporated within and is directly supportive of content instruction in English.[86] Thus, children are not pulled out of any class and are not segregated in any way.

In any case, the ESL approach cannot meet the needs of language minority students when it is used in schools in which students fall behind in subject matter to the extent that they cannot recuperate. In determining the appropriateness of the ESL approach for any group of students, the rate and amount of language learning is usually not weighed against the amount of retardation in subject matter and the overall psychological effect

---

84. In the Southwest, approximately one-fourth of ESL teachers have had less than 6 hours of training for ESL teaching. Percentage calculated from figure 10, The Excluded Student, p. 27. According to Muriel Saville-Troike, many ESL trained teachers have no elementary or secondary education training. Interview with Muriel Saville-Troike, School of Languages and Linguistics, Georgetown University, Mar. 21, 1974, in Washington, D.C.

85. "Unless carefully planned - [ESL pull out classes] do not provide long enough periods of intensive help; do not ensure continuity of instruction for the learners; and generally do not make it possible for them to integrate the English they have learned in the special English class with that needed in the other curriculum areas." Finocchiaro, "Teaching English to Speakers of Other Languages: Problems and Priorities," pp. 39-47.

86. Muriel Saville-Troike, president of the TESOL organization, discusses how ESL pull out programs implemented in the United States have not met the communication needs of language minority children. She states that in practice ESL classes tend to be isolated English instruction. She proposes in lieu of ESL pull out programs, an English support type component which would be included within the regular subject matter instruction. "From Melting Pot to Salad Bowl: The Promise and Reality of Multicultural Education," keynote speech for the New York ESL Bilingual Education Association Convention, Syracuse, N.Y., Oct. 19, 1974.

on the child. The ESL approach is inappropriate where academic frustration and failure are not diminished by the program.[87]

The ESL approach is useful only in communities where children receive enough exposure to English outside the school to function as native speakers in a relatively short period of time. Thus, retardation in subject matter does not occur to the extent that students cannot recover. Further, because of the relationship between attitudes and second language learning,[88] the ESL approach is useful only in communities where it is possible to maintain pride in the native language and culture and therefore to develop a positive attitude toward the learning of English. Since ESL is viewed by many to be solely a remedial program for socially and economically disadvantaged children,[89] in many communities, attitudes by school officials, teachers, and students work against its success.

---

87. Saville and Troike state that "A child who starts off with frustration or failure may never catch up. A low self-image, lack of motivation, and unsatisfactory performance are often interrelated handicaps to a child whose initial instruction is in a foreign language." Handbook of Bilingual Education, p. 2.

88. Ibid., p. 18. "There are many factors outside the direct control of school which influence first and second language development." Among others they include: "The nature of the child's preschool linguistic environment. Personality traits of parents and their attitudes. Degree of association with adults. The attitude of the parents towards their own speech community and towards the second language group."

89. Funds used for ESL are authorized under Title I of the Elementary and Secondary Education Act of 1965, which, "In recognition of the special educational needs of children of low-income families" provides monies for "meeting the special educational needs of educationally deprived children." 20 U.S.C. § 241a.

BILINGUAL BICULTURAL EDUCATION

Bilingual bicultural education is a comprehensive educational approach which involves more than just imparting English skills.[90] Children are taught all cognitive areas,[91] first in their native language. Oral expression and reading are developed in native language arts courses, and English is taught formally in English as a Second Language classes. Once the children have learned to speak English, they are taught to read it. Instruction in areas which do not require extensive use of language such as art, music, and physical education may be provided in English for informal language practice and exposure. Instruction through English in cognitive areas begins when the child can function in that language and experiences no academic handicap due to insufficient knowledge of the language. Some instruction in the native language may continue even after the child is competent in English.

A major aspect of bilingual bicultural education is inclusion in the curriculum of the child's historical, literary, and cultural traditions for purposes of strengthening identity and sense of belonging and for making the instructional program easier to grasp. Native language teachers are usually utilized for instruction in the native language of the child and native English speaking teachers for instruction in English.

---

90. For an overall discussion of bilingual bicultural education see Andersson and Boyer, Bilingual Schooling in United States, and Saville and Troike, Handbook of Bilingual Education.

91. Such as math, social studies, and science.

The duration of bilingual bicultural programs will vary among different communities, depending on the number of years language minority children need to develop proficiency in English or on other objectives of the program, such as fostering positive self concept or community desire to continue a program so that children will maintain skill in the minority language.

Following is a discussion of how bilingual bicultural education provides equal educational opportunity. Emphasis is placed on the most important elements in any educational program: fostering self concept and developing cognition, language expression, reading, and English skills.

Self Concept

Self concept is defined as "an organization of images which each person has about himself in the world. These images develop over time from the reflected appraisals of others around him."[92] They stem originally from interaction within the family which is the first context in which children see themselves.[93] After the family, school plays the most decisive role in the development of self concept because children spend a great portion of their developing years in school.

Current developers of curricula have given as much importance to building self concept in schools as to transmitting knowledge. Some researchers emphasize the importance of developing positive self concept in order for learning to take place,[94] while others stress it because it is necessary for children to grow into mature and functioning adults.[95]

---

[92] Walcott H. Beatty, "Emotion: The Missing Link in Education," Improving Educational Assessment and An Inventory of Measures of Affective Behavior, ed. Walcott H. Beatty, (Washington, D.C.: Association for Supervision and Curriculum Development, NEA, 1969), p. 76.

[93] Frederick Elkin and Gerald Handel, The Child and Society: The Process of Socialization, (New York: Random House, 1960), p. 100. The family provides the first context for forming ideas about the world which surrounds the child. Emotional ties, attachments, and, and self image are first developed at home.

Children discover who they are as a consequence of experience. In school, the kinds of responses that children receive from peers and teachers and their own reactions to instructional material will positively or negatively influence self concept.[96] Children's self images are affected by the manner in which teachers relate to them, decide what is expected of them, and by the success they experience with subjects. The manner in which textbooks portray members of their cultural group also affects the developing self concept.

Children who view themselves as being loved, accepted, and respected develop positive self concepts.[97] They are motivated to learn because they approach learning with optimism and confidence in their abilities.[98] They approach life with openness and, thus, are able to make the fullest possible use of new experiences.[99] Since such children feel adequate, demanding or difficult tasks do not frighten them.

---

[94] According to one researcher, "Motivation and self concept are involved in intellectual competence". Celia S. Lavatelli, Piaget's Theory Applied to an Early Childhood Education, (Boston: A Center for Media Development, Inc., 1973), p. 42.

[95] The different points of view are discussed in Beatty, "Emotion: The Missing Link in Education," pp. 74-75.

[96] Perceiving, Behaving, Becoming: A New Focus for Education, prepared by Association for Supervision and Curriculum Development 1962 Yearbook Committee, Arthur W. Combs, Chairman, (Washington, D.C.: ASCD, 1962), p. 113.

[97] Arthur W. Combs states "to feel acceptable one must have been loved. A positive view of self is the product of fulfillment, of having been given." "A Perceptional View of the Adequate Personality," Ibid., p. 53.

On the other hand, children with negative self concepts doubt that they are worthy of being loved and feel threatened by new experiences. They construct defense mechanisms for protection which may permanently affect their ability to be open to new experiences.[100] They approach learning with fear and anxiety which consumes the energy needed for learning and inhibits intellectual growth.[101] Children who experience undue emotional stress are less likely to pay attention, to remember or to be actively involved in the learning situation.[102]

---

[98] Motivation to learn and academic success depend not only on innate ability, but also to a great extent on whether a child wants to learn and feels capable of learning. Daniel A. Prescott, Emotion and the Educative Process, (Washington, D.C.: American Council on Education, 1938), pp. 162-163. Combs states that "a positive view of self gives its owner a tremendous advantage in dealing with life. It provides the basis for great personal strength. Feeling positively about themselves, adequate persons can meet life expecting to be successful. Because they expect success, they behave in ways that tend to bring it about." It is the people who view themselves as liked, wanted, acceptable, worthy, and able who "make important contributions both to themselves and to the societies in which they live." He further states that the "best guarantee that we have that a person will be able to deal with the future effectively is that he has been essentially successful in the past. People learn that they are able, not from failure, but from success." "A Perceptional View of the Adequate Personality," pp. 52-53.

[99] Ibid., p. 56. Combs states that "openness to experience...refers to the ability to admit evidence into awareness." Being open to experience is directly related to the individual's freedom from the experience of threat." Also see Carl R. Rodgers, On Becoming a Person, (Boston: Houghton Mifflin Co., 1961) pp. 107-124.

[100] Ibid.

[101] Beatty, "Emotion: The Missing Link," p. 75.

The ability to identify with others is an important factor in developing self concept.[103] Each individual develops from being self-centered in infancy to including others as part of the self in adulthood.[104] During this socialization process, children develop feelings of belonging, which schools may nurture by utilizing and developing the particular language and experiences which are part of a child's first sense of identity.[105] Identification with other people is more difficult to achieve if the child's language and cultural experiences are rejected in the school.

Despite the correlation between a positive self concept and successful learning, many schools in this country adversely affect the self concepts of children. Numerous persons have testified at Commission

---

102. Hilda Taba, The Foundations of Curriculum Development: Theory and Practice, New York: Harcourt, Brace, & World,1962), p. 103. This point should not be confused with the fact that a moderate amount of fear or anxiety is sometimes beneficial for some learning tasks. Inhibition of intellectual growth results when children experience constant and extensive emotional stress.

103. Combs, "A Perceptional View of the Adequate Personality," p. 54.

104. Ibid.

105. In addition, a school traditionally "functions on behalf of the culture in which it exists." Taba in Curriculum Development, p. 17. Elkin and Handel state that the school's "primary function is to transmit, in a more or less formal way, a large share of the intellectured heritage of a society." The Child and Society, p. 12. Educators state that in the United States "schools have been oriented historically to the middle and upper classes, the curriculum of the school today is largely designed, even in the more advanced programs to emphasize middle-class values and modes of conduct." B. Othanel Smith, William O. Stanley, J. Harlan Shores, Fundamentals of Curriculum Development, (New York: World Book Company, 1957), p. 35.

hearings on the negative effects of the English curriculum on minority children's attitudes toward themselves.[106]

> Our educational system is structured in such a way in New York, and throughout most of the country, that the first thing these Puerto Rican youngsters are being taught to do is become ashamed of their background. 107

A Mexican American student described the effect of the "no Spanish rule" on his self concept.[108]

> If they caught you talking Spanish, they would send you to the office and give you a warning. They would give you a long lecture about, if you wanted to be an American, you have got to speak English. And you were not a very good American. I mean, they are telling you that your language is bad. You hear it at home. Your mother and father speak a bad language. 109

During the Commission's hearing in New York City on Puerto Rican problems, a young Puerto Rican related her feelings about being in school.

> The fact that I wasn't learning discouraged me, and I found that sitting in a classroom and not learning anything was really a blow to my ego. 110

---

106. Hearing before U.S. Commission on Civil Rights, San Antonio, Texas, Dec. 9-14, 1968. Hearing before U.S. Commission on Civil Rights, New York, N.Y., Feb. 14-15, 1972.

107. Testimony provided by a member of the New York Board of Education. Transcript of New York Hearing, p. 122.

108. The "no Spanish rule" has been utilized in many schools to discourage the use by Mexican Americans of Spanish in school. Though only 15 of the 532 school districts in the Southwest, including California, Arizona, New Mexico, and Texas, have a formal written policy discouraging or prohibiting the use of Spanish, of the estimated 5,800 schools, approximately one-third discourage the use of Spanish not only in the classroom but on the school grounds as well. The Excluded Student, pp. 14-15. Though probably intended to promote development of English skills, this policy has an adverse effect on the self concept of these children and thus on their ability to learn.

109. Transcript of San Antonio Hearing, pp. 189-190.

110. Transcript of New York Hearing, p. 50.

Providing children learning tasks at which they can succeed is fundamental in the development of any school curriculum. The experience of success ensures continued learning because it builds children's confidence in themselves and in their abilities.[111] A monolingual English curriculum may set in motion a pattern of failure for some language minority children because receiving instruction through a language they do not control makes learning tasks more difficult than they were designed to be.

In a survey of how students feel about their ability to learn, the Coleman report documented in 1966 that language minority groups generally view themselves as not being capable of achieving success and doubt to a greater extent than Anglo students their ability to learn.[112] It is little wonder that the monolingual English school system fails to provide language minority children the experiences which ensure success and build a positive self concept when their native language and culture are almost totally excluded from every aspect of the school process.[113] Without teachers, instruction, instructional materials, and parents[114] to which language minority children can relate, it is virtually impossible to provide an environment conducive to learning and the development of positive self concept.

---

[111] "Some children, particularly those who have had a succession of failures, will become disposed to avoid trying because their fear of failure outweighs any hope of success... One of the factors that contributes to the development of self-actualizing tendencies, self-esteem and achievement motivation is the history of the individual's performance in terms of success and failure." Morris E. Eson, Psychological Foundations of Education, (New York: Holt, Rinehart and Winston, Inc., 1972), p. 51.

[112] Coleman, Equality of Educational Opportunity, pp. 288-290. The language minority groups surveyed and included here are: Mexican Americans, Puerto Ricans, Native Americans, Asian Americans, and "Others" which encompasses all other ethnic groups, excluding blacks.

Ethnocentricity is imbedded in the socialization process of society[115] and is transmitted by the school, an agent of that socialization. It is not necessary for language minority children to be taught explicity that their group is less valued. The same idea is often conveyed when instruction does not include reference to things or experiences familiar to them or to their cultural group. Furthermore, many school textbooks carry historical inaccuracies which discredit minority groups.[116] Such treatment contributes to reduced

---

113. See Chapters III, IV, and V pp. 3-16, 33-48, U.S. Commission on Civil Rights, Toward Quality Education for Mexican Americans, Report 6, Mexican American Education Study, Feb. 1974, for a discussion of Mexican American language and culture exclusion in schools of the Southwest.

114. Though not all Anglo parents are involved in the education of their children, the curricula of American schools generally reflect their cultural beliefs and values, since most school staff are Anglo. Because neither the structure nor content of the school program reflects the culture of language minority parents, a certain alienation exists between language minority parents and schools. Thus, it is crucial that they participate in bilingual bicultural programs.

115. Taba, Curriculum Development, p. 73.

116. Carlos Cortes, "A Bicultural Process for Developing Mexican American Heritage Curriculum," Multi-lingual Assessment Project: Riverside Component 1971-72 Annual Report, ed. Alfredo Castaneda, Manuel Ramirez, and Leslie Herold (Riverside, Cal.: Systems and Evaluations on Education, 1972), p. 5.

feelings of self-worth among minority group children.[117] Bilingual bicultural education can overcome the implicit ethnocentricity of the school curriculum, since the values, traditions, history, and literature of the language minority children's culture as well as of the composite American culture are an integral part of the curriculum and, thus, it strengthens instead of weakens the sense of pride for the language minority group.

All children, regardless of cultural background, experience some cultural shock when they first begin school, since school is a new institution requiring different behavior than the home.[118] For many language minority children, starting school is particularly difficult because home and school are not merely two different institutions but also represent two different cultures. For example, in school Navajo children must suddenly relate to and obey adults outside their families. Beyond that, however, an Anglo teacher may create cultural conflict in Navajo children just beginning school by speaking immediately to them and expecting a response to personal inquiries. Although such questioning is commonly used to put Anglo children at ease in a strange new school environment, it is contrary

---

117. In recognition of the importance of including the cultural background of the child, some schools now provide ethnic studies. Some incorporate the historical tradition of the child in regular social studies classes. See The Excluded Student, pp. 32-34.

118. This process involves "shifting the patterns of habits, of motivation, of responses, of feelings of self-esteem and of self-expectations." See Taba, Curriculum Development, p. 145.

to the Navajo custom of initial silence with unfamiliar people and situations. Even the question, "what is your name" may be an intrusion, since some Native American tribes reserve the saying of their own names for religious ceremonies.[119] By demanding behavior that contradicts what was learned at home, schools may foster negative self concept.[120] Bilingual bicultural education is designed to help the child make the transition from home to school more easily by reducing the differences between the language and culture of the home and that of the school.

---

119. Muriel Saville-Troike, Bilingual Children, A Resource Document, Papers in Applied Linguistics, Bilingual Education Series: 2, Originally prepared for Child Development Associate Consortium, Inc., (Arlington, Va.: Center for Applied Linguistics, 1975), p. 42.

120. Horacio Ulibarri, Educational Needs of the Mexican American, Prepared for the National Conference on Educational Opportunities for Mexican Americans, on Rural Education and Small Schools, p. 13

One way bilingual bicultural education further enhances self concept is by utilizing language minority teachers[121] to reinforce the child's background and culture. Self concept is affected by interaction with teachers, and language minority teachers are sometimes best able to communicate the encouragement and understanding needed by language minority children. Some language minority children more easily express and share their feelings with teachers from their own groups. For example, Anglo teachers at the Rock Point bilingual bicultural school on the Navajo Reservation welcomed the presence of Navajo teachers whom they felt students more readily trusted.[122]

---

[121] In the monolingual English school, the proportion of language minority students to minority teachers of the same ethnic background, who may or may not speak the native language, is low for all groups. In 1972, of a total of 55,788 teachers in New York City, 1,239 were Spanish American (includes Puerto Ricans and other Hispanic peoples), while there were 298,903 Spanish American students of a total [illegible],125,449 student enrollment. U.S. Department of Health, Education, and Welfare, Directory of Public Elementary and Secondary Schools in Selected Districts. Enrollment and Staff by Racial Ethnic Group, p. 936. In California in 1970, Mexican Americans represented only 2 percent of the teaching profession, while the student population exceeded 14 percent. U.S. Commission on Civil Rights, Ethnic Isolation of Mexican Americans in the Public Schools of the Southwest, Report 1, Mexican American Education Study, Apr. 1971, p. 41. While nearly 100 percent of students in Window Rock, Arizona, were Navajo, only 1 percent of the teachers were. The Southwest Indian Report, p. 27. During Commission hearings one witness testified that "25 percent of the teachers that are presently teaching Indian children don't even like Indian children." Transcript of Hearing before U.S. Commission on Civil Rights, Phoenix, Ariz., Nov. 16-17, 1972, pp. 202-203. In San Francisco in 1972, Chinese Americans constituted 5.4 percent of the teaching staff, while students represented 14.9 percent of the total school population. Reporter's Transcript of Proceedings before the California State Advisory Committee to the U.S. Commission on Civil Rights. Civil Rights Concerns of Asian Americans, San Francisco, Cal., June 22-23, 1973, p. 46.

[122] Interview with Bob Faxen and Sandy Keslar, ESL teachers, Rock Point School, Navajo Reservation, Apr. 25, 1974.

Native English speaking Anglo teachers and native language speaking minority teachers working together in the same school can provide students with a model for positive interethnic relationship. Furthermore, the use of both Anglo and minority teachers is a natural means of integrating both languages and cultures within the curriculum.

The lack of positive teacher-student interaction in monolingual schools was underscored by the Commission's study of Mexican American education which documented Southwestern teachers' failure to "involve Mexican American children as active participants in the classroom to the same extent as Anglo children."[123] Mexican American students received far less praise and encouragement, were questioned substantially less, and were far less likely to have their ideas or contributions used than were Anglo students. It was not surprising, therefore, that they also spoke less and showed less initiative.

---

[123] U.S. Commission on Civil Rights, Teachers and Students, Report 5 Mexican American Education Study, Mar. 1973, p. 43.

Cognitive and Language Development

Educators today emphasize that cognitive growth--the development of intellectual processes--is more important than the accumulation of information.[124] As a result, increasingly greater emphasis is being placed in school curricula on factors which facilitate intellectual development. Language development is one such factor.

Although the exact relationship between language and thought is not known, there is general agreement that they are intricately related. Language has been defined as a "symptom of underlying thought"[125] because it expresses and defines ideas, concepts, and logic. Some researchers postulate that cognitive development proceeds on its own, separately from linguistic development, and that it is only reflected in the child's language.[126] Nevertheless, they believe that language serves to facilitate or amplify intellectual growth because the "child's intellect grows through

---

124. Vera John and Vivian M. Hroner, Early Childhood Bilingual Education Project, (Modern Language Association, 1971), p. xxiii.

125. Lavatelli, Piaget's Theory Applied to an Early Childhood Curriculum, p. 54.

126. Lavatelli states that, according to Jean Piaget, "the language of the child, his expression of ideas, becomes clearer, only as ideas become more logical." And "language is not causally responsible for basic cognitive development," Ibid., p. 63.

interaction with things and people in his environment."[127]

Other researchers state that language aids in transforming thought by making it clearer.[128] This explains why teachers often tell their students to "think out loud" about a problem with which they are having difficulty. It is believed that "in searching for the right words to express ideas, they lose some of their fuzziness and become clearer and more logical."[129] Teachers themselves know that teaching a concept is the best way to understand it fully, because in verbalizing it they iron out the inconsistencies.[130] Thus, by stimulating and training students to use language, teachers facilitate cognitive growth and in effect teach

---

127. Slobin, Psycholinguistics, p. 99. Joyce Morris, "Barriers to Successful Reading for Second-Language Students at the Secondary Level," The Language Education of Minority Children, ed. Bernard Spolsky or (Rowley, Mass.: Newbury House Publishers, Inc., 1972), p. 161. In Early Childhood Bilingual Education Project, John and Horner state that concept formation is facilitated, "the wider the variety of associations the child can make with the concept and the more meaningful the ideas to be assimilated," p. 62. In concept formation, children relate new information with the knowledge they have. Therefore, they must be allowed to relate to the values, behavioral patterns, and personal and group experiences which form part of their storage of knowledge and which originate in their culture.

128. The Russian psychologist, L.S. Vygotsky, represents the school of thought which believes in a greater interdependence between language and thought. And even though Jean Piaget stresses the independence of language and thought, Lavatelli points out that Piaget is somewhat contradictory on the subject. Piaget's Theory Applied to an Early Childhood Curriculum, p. 63.

129. Ibid., 63-64.

130. Ibid.

logic.[131] For example, in response to a child who made an error in classification by saying "there are more fathers than men," a teacher may be able to clarify both the meaning of words and the concept by saying" there are more men because not all men are fathers."[132]

An extensive vocabulary and command of grammatical constructions facilitates learning, memory, and manipulation of complex concepts.[133] For example, both vocabulary and the relationships among words are involved in understanding the following concepts: "the boy's hat, herbivorous mammals, the top of the Rock of Gibraltar, excess of income over outgo, two right turns after each left turn."[134] The vocabulary items represent concepts, and the grammatical constructions represent the relationship of one concept to the other. Although children could learn those concepts without the benefit of language, they learn them more quickly and more easily through language because it serves to represent things which cannot be seen or felt.

---

131. John B. Carroll states, "If the learning of concept is accompanied by the learning of a particular verbal response, the potency of the concept in behavior is likely to be enhanced; concept learning is more likely to be accompanied by overt verbal learning, the older the individual is." Language and Thought, (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1964) p. 98.

132. Patterned after an example provided in Lavatelli, Piaget's Theory Applied to an Early Childhood Curriculum, PP. 66-67. by G.A. Kohnstamm, Teaching Children to solve a Piagetian problem of class inclusion, (Amsterdam: North-Holland Publishing Co., 1967).

133. Carroll, Language and Thought, pp. 92-93.

134. Ibid., p. 93.

Because language frees the individual from what is immediately perceived or felt, it facilitates cognitive growth by allowing the child to go beyond immediate perception.[135] It has been demonstrated that a child is more likely to remember a concept as a result of having represented it through language. It has been suggested that the ability to retrieve an experience or concept from memory is due in large part to whether or not the experience or concept was coded or stored linguistically in the brain.[136] This has been used to explain why it is almost impossible to remember experiences that occurred before we spoke and why it is difficult to recall experiences or feelings that were not encoded linguistically, either orally or in thought.

When language is recognized as the means for representing thought and as the vehicle for complex thinking,[137] the importance of allowing children to use and develop the language they know best becomes obvious. In a bilingual bicultural program, children use the language they understand best to explore, interpret, and construct meaning and, therefore, are better able to remember and manipulate complex concepts. Native language teachers in bilingual bicultural education programs help children reach their maximum level of cognitive growth by providing

---

135. Slobin, Psycholinguistics, p. 111.

136. Ibid., pp. 105-106.

137. For a discussion of this relationship, see Mary Finocchiaro and Paul King, Bilingual Readiness in Earliest School Years, A Curriculum Demonstration Project, (U.S. Office of Education, Dec. 1966), p. 5.

children with opportunities for verbal interaction with adults who have full command of their language.

In addition to the relationship between well-developed language and cognitive growth, the ability to use oral and written language effectively is important in our society, since it often is considered the mark of a well-educated individual. In school, language skills are needed for learning and conveying an understanding of subjects. Poor expression skills can contribute to low teacher expectations of a student's ability and, thus, to a negative self-image in the student. Teachers commonly remark that a particular child is intelligent because he or she has a large vocabulary. Further, children themselves easily feel discouraged, inadequate, and frustrated when they cannot express themselves.

The decision to promote children from one grade to the next is based on whether they are able to communicate that they have learned the information and concepts required. In the early grades children do so by expressing themselves orally. In the upper grades the emphasis is placed on a student's written performance. Finally, the fact that verbal ability is one of the two basic measures used on college entrance examinations reflects the importance of language skills for further educational opportunity.

Verbal skills are best developed in the language the child knows best. It is more efficient and psychologically healthier to develop fully the child's native language in building verbal ability.[138] In providing language minority children with language arts programs based on their native language and culture, bilingual bicultural education ensures the same continuity in language development that native English speaking children experience in a monolingual English curriculum. Native language arts programs, like English language arts programs, are designed to "refine and extend" children's use of language.[139] By providing the opportunity for verbal interaction and by providing culturally relevant situations on which to base language usage, they ensure the development of expression skills commensurate with their level of intellectual and emotional development.[140]

There is reason to believe that children who are faced with the task of expressing new ideas and thoughts in a second language they are trying to learn may never learn to express themselves well because they have been temporarily deprived of the tools to do so in any language.[141] In addition, because understanding concepts depends on the imperfect knowledge of a second language, learning becomes difficult.[142] A curriculum that proceeds as though they have adequately mastered certain concepts may have adverse effects on language minority children. It is likely to delay, disrupt, and handicap concept development since most learning is cumulative.

---

[138] The first grade child, for example, already controls 80 percent of the grammar of his or her language, Saville and Troike, Handbook of Bilingual Education, p. 15; and uses several thousand words, W. Nelson Francis, The Structure of American English, (New York: The Ronald Press Co., 1958), p. 547.

[139] Handbook for Language Arts, Bureau for Curriculum Development, Board of Education for the City of New York, 1966, reprinted 1968, p. 76.

[140] The use of vocabulary and grammar of 6-year-old children is limited to conveying limited concepts of the world around them. Schools accelerate the need for a more extensive and accurate vocabulary as well as for a more complex usage of grammar. Carol Chomsky states that "Active syntactic acquisition is taking place up to the age of nine and perhaps even beyond." The Acquisition of Syntax in Children from 5 to 10, (Cambridge, Mass.: The MIT Press, 1969), p. 121.

Culture and Learning

Since culture forms the base of all school curricula, the cultural relevance of curricula is as crucial to learning as understanding the language of instruction. A Navajo child learning how to sequence events will find it easier to relate sequencing to taking care of sheep, rather than to a trip to the supermarket. A Navajo child will understand better the concept of societal organization if it is first discussed in terms of Navajo society, rather than in terms of the unfamiliar Anglo culture. The same child will be stimulated to learn history of the United States if it includes the history of the Navajo Nation.

---

141. Children in this situation may never achieve "adequate self expression." The Use of Vernacular Languages in Education. Monographs on Fundamental Education, VIII, (Paris: UNESCO, 1953), p. 47.

142. Seth Arsenian states that "thinking, especially discursive or abstract thinking would be seriously impaired and limited in scope without language" and "that the range and possibilities of thought exceed the boundaries of language" but without language, abstract, logical thinking would be seriously handicapped." Arsenian, Bilingualism and Mental Development, (Ann Arbor, Mich.: Univ. Microfilms, Inc., 1936), p. 131.

Curricula of American schools are based on the principle that instruction begins with the experiences and capacities that children bring to school.[143] Children learn by ordering and making sense out of that which is already familiar. Thus, the only valid set of references used for learning should be those which the child already knows. The nearer new ideas or new information are to "whatever has meaning to students, the greater the possibility that the idea will be discovered and understood" and the greater the possibility that "both the potential of the student and his motivation will be fully engaged."[144]

In a bilingual bicultural program the points of departure of learning are the cultural values, cultural heritage, and societal experiences of the language minority child. The composite American culture is introduced consciously and systematically and is only assumed to be a valid set of referents when the child has become familiar with it.

Reading Skills Development

Reading is one of the first skills school teaches. The importance of mastering reading at an early age is clear. Much of our knowledge in school and throughout life is gained through reading, and access to a great part of the content of the school curriculum depends on reading. Poor reading skills can limit a child's educational potential and have

---

143. John Dewey, Experiences and Education (New York: The Macmillan Co., 1938) p. 176. Smith, Stanley, and Shores, Fundamentals of Curriculum Development, p. 177.

144. Taba, Curriculum Development, p. 283.

consequences for future opportunities. A young Puerto Rican student recalls the effect of testing low in reading:

> Since my reading score was low, I wasn't put in an academic [program], I was put in vocational.[145]

Yet many schools have failed to provide language minority children the reading skills they need. In New York City, in a sample taken by the Board of Education in 1969 of predominantly Puerto Rican schools, the average reading score for Puerto Rican students attending predominantly Puerto Rican schools at the eighth grade level was 2 years behind the national norm, and 81 percent were reading below grade level.[146] In the Southwest, 40 percent of Mexican American students are reading 2 or more years below grade level at the 8th and 12th grades.[147]

The Navajo bilingual school of Rock Point, Arizona, made an informal inquiry in 1971 of its Navajo classroom personnel concerning their personal experiences with learning to read. All declared that "only close to the junior high school level, or even later, had they been able to read independently some of the assigned material with some real understanding." They admitted that "reading [English] is still difficult." All had attended school where instruction was

---

145. Transcript of New York Hearing, p. 52.

146. *Ibid.*, Staff Report, Public Education for Puerto Rican Children in New York, p. 246.

147. *The Unfinished Education*, p. 25.

completely in English. They were taught to read when they still had only rudimentary oral skills in the language.[148] There is no doubt that children cannot be motivated to read if they cannot understand and enjoy what they are required to read in school.[149] As one reading specialist noted:

> Great damage can be done to some children by expecting them to read material which at the moment they are incapable of handling. Other children may form mal-attitudes if they are forced to perform mechanical activities when they are capable of wide and extensive reading for pleasure. 150

Language minority children starting school have either limited or no English speaking ability, which results in initial difficulty in learning to read English. In bilingual bicultural programs, reading is taught in the child's native tongue to ensure initial reading success. Children bring to the task of learning to read a complete language system and the sum total of their life experiences. Rather than assuming cultural and linguistic experiences that they do not have, in reading instruction bilingual bicultural

---

148. Elizabeth W. Willink, "Bilingual Education for Navajo Children," Bilingualism in the Southwest, ed. Paul R. Turner, (Tucson: Univ. of Arizona Press, 1973), p. 185.

149. Arthur Heilman states that the basic principle of teaching reading is that "no child should be expected or forced to attempt to read material which at the moment he is incapable of reading." Heilman, Principles and Practice of Teaching Reading, (Columbus, Ohio: Charles E. Merrill Publishing Co., 1967), p. 185.

150. Ibid., p. 229.

education capitalizes on children's familiar experiences and knowledge of their own language. They are, thus, not being taught reading skills and a new language at the same time.

Reading instruction in the United States is usually based on an assessment of reading readiness, which is largely determined by the child's ability to use the language that he or she is about to learn to read.[151] Since reading involves decoding written symbols[152] and forming and using concepts, children are ready to read in their languages if they have good visual discrimination, if they are able to hear the finer distinctions in words, if they have a wide range of vocabulary, knowledge of sentence structure, exposure to language, and varied experience with books.[153] Most language minority children entering school who are ready to read in their own languages are not ready to read English because of unfamiliarity with the language and unshared cultural experiences which form the background for reading.[154] English speaking children have a 6-year head start in English language development.

---

[151] For a definition and discussion of reading readiness see George D. Spache, The Teaching of Reading, (Bloomington, Ind.: Phi Delta Kappa Inc., 1972) pp. 11-31; and Gertrude Whipple, "The Concept of Reading Readiness in the U.S. of America," Reading Instruction, an International Forum, ed. Marian Jenkinson, (International Reading Association, 1967); and Heilman, Teaching Reading, pp. 25-65.

[152] The initial task of the child learning to read is to understand that graphic symbols represent the sounds and words that she or he uses in order to communicate. Then the child must learn the graphic representations and how to use them. If the child is a speaker of English or of other Western languages, he or she is taught that symbols are read from left to right and from top to bottom. Pages are turned from right to left.

[153] Whipple, "Concept of Reading Readiness".

Some languages are easier to learn to read than others. The greater the phonetic correspondence between the written symbol and the sound, the easier the language is to decode and consequently to read. Decoding skills are easier to learn in Spanish or Navajo because the Spanish and Navajo written codes are phonetically consistent with the oral language. Learning to read English is a more involved process, since decoding the written symbols is more difficult. Because the phonetic code is not entirely consistent with the oral language, children cannot rely merely on knowledge of the code. To a great extent, they must be able to anticipate words in a sentence based on knowledge of the language.[155] A major difficulty in teaching limited or non-English speaking children to read in English is that they cannot predict words due to their limited knowledge of the English language.

Knowledge of the grammar of the language is important in predicting and, therefore, in reading words.[156] Children learning to read their

---

154. Heilman, in Teaching Reading, states that "Learning to read is an extension of language skills which the child has already developed," p. 65.

155. Kenneth S. Goodman and Olive S. Niles state that reading involves "sampling, predicting and guessing, based on grapho-phonic (sound-symbol correlation), syntactic (grammar), and semantic (vocabulary) knowledge." In predicting meanings, the reader brings into play his or her prior experiences. She or he organizes the meaning based on concepts he or she has already formed. See Reading Process and Program, (Champaign, Ill.: Commission of the English Curriculum, National Council of Teachers of English, 1970), pp. 15-16

156. Ibid.

native language have already learned most of the grammatical rules governing the use of their language. Knowledge of these rules, though subconscious in young children, aids them in decoding words and in reconstructing meaning. Native English speaking children would never be tempted to read the sentence "John leaves home" as "lives home" because they know that, if the word were "lives," the sentence would read "John lives at home."

Reading involves skills in how to explore, interpret, and extend the meanings represented by the written symbols.[157] Children who "can decode and pronounce written words correctly do not necessarily know what they mean."[158] To illustrate, an eighth-grade Navajo girl was asked to read a line of a poem; "He married his girl with a golden band." She pronounced each word correctly. However, she was unable to explain it because she could not relate to the concept of marriage being represented by a gold band.[159]

---

157. Morris, "Barriers to Successful Reading for Second Language Students at the Secondary Level," p. 162.

158. Heilman, Teaching Reading, p. 225.

159. Morris, "Barriers to Successful Reading," p. 161.

> The major weakness in the reading of ESL students at the secondary level is the fact that, in all too many instances, the initial reading step is performed: the child decodes the symbols and produces the word and stops. The words fail to trigger anything because the concepts represented to us and to the author simply do not exist for the child or they exist in a limited, vague form. [160]

The limited English speaking child does not know of the subtleties and shades of meaning of English. As success in decoding English depends to a large extent on prior knowledge of English,[161] so does understanding or conceptualizing in the language. Further, as in the case of the Navajo student, knowledge of the culture aids the reader in understanding. Words represent objects, ideas, and abstractions that carry with them "feelings, experiences both real and vicarious."[162]

Initial reading can be taught in a second language, but only after the child has learned to understand and speak it. Current, accepted, second language teaching methodology dictates a proper sequence of skills

---

160. Ibid.

161. The difference in decoding and comprehension in reading is underscored by the fact that one can learn to read some languages without understanding them. For example, Jewish boys learn to read Hebrew in preparation for the Bar Mitzvah, however, not all comprehend Hebrew. Many Roman Catholics all over the world read Latin, though few understand Latin.

162. Morris, "Barriers to Successful Reading," p. 161.

development for second language learning: listening, speaking, reading, and writing. "Reading and writing come after some fluency has been achieved in speech, and even then, the initial written material should contain no structures which have not first been introduced orally."[163] Since reading and writing activities can help reinforce second language acquisition, these need not be delayed too long after oral instruction has been introduced. However, this presupposes that the child already has developed reading skills in his or her native language.[164]

It is inefficient to delay introducing reading until fluency in English has been achieved. Bilingual bicultural education capitalizes on the native language skills children already have. From a psychological standpoint, the educational and emotional benefits of, first, successfully learning to read and, second, of learning to read in the native language contribute to development of a positive self concept, which in turn contributes to success in school.[165] Once the child has learned to read in the native language, learning to read a second language should present no great problem because basic reading skills are transferrable.[166]

---

163. Saville and Troike, Handbook of Bilingual Education, p. 53.

164. Muriel Saville-Troike, Department of Languages and Linguistics, Georgetown University, interview Mar. 21, 1975, in Washington, D.C.

165. The importance of initial success in reading is underscored by Heilman in Teaching Reading. He states that "the child's early attitude towards reading is important from the educational standpoint. It can influence a student's reading habits for life. Nothing should be permitted to happen in beginning instruction which impairs later development of efficient reading," p. 10. In the Commodore Stockton Elementary School, (San Francisco Title VII bilingual bicultural program) visited by Commission staff, Chinese children are taught to read Chinese characters despite the fact that there is no sound symbol correspondence as in English. However, it is felt that the linguistic and emotional experience of being able to read the native language contributes to successful reading of English.

166. Saville and Troike, Handbook of Bilingual Education, p. 50.

English Skills Development

Language minority children in this country ultimately must learn English. In fact, one of the greatest concerns of language minority parents is that their children learn English so that they may participate fully in American society. Sufficient evidence indicates that the monolingual English schools have failed to impart adequately English language skills to language minority children.[167] In the Commission's hearings in San Antonio, a freshman Mexican American college student stated,

> One of my biggest problems right now is English which I still have many difficulties in, especially sentence structure, communicating, written communication in English.[168]

Lack of English skills also has caused students to be denied entry into college or academic programs in high school. A Puerto Rican girl described the experience which made her realize she had not developed the proficiency in English that she needed to pursue academic work.

> A lot of it was reflected when I had to do homework, I couldn't read the book, and if I did read it I missed all the content. I never got the content. Therefore, this reflected in the poor work I was doing for the homework.

---

[167] This can be supported by the record of verbal achievement for language minorities as documented in Coleman's Equal Educational Opportunity; The Unfinished Education ; Transcript of New York Hearing; The Southwest Indian Report.

[168] Transcript of San Antonio Hearing, p. 180.

> The other thing was in examinations. I could never pass an examination because I was missing the content of what I read. A good example of this is when I took the SAT to enter into college. I scored 277 in verbal, and I think I scored 500 in math, and that was because the math I didn't need anybody to teach it to me. That was self-taught with the background I had in Puerto Rico. [169]

Many factors contribute to second language learning. They include language aptitude, general intelligence, and motivation. Recently two factors--systematic approach to the teaching of the language and culture[170] and positive attitudes towards oneself and the cultural group whose language is being learned[171]--have been singled out as playing the decisive roles in successful, second language learning.

Systematic Approach to Second Language Teaching.--Bilingual bicultural education provides a systematic approach to second language learning. All bilingual bicultural programs have a formal, second language instruction component. For language minority children in this country that component is English as a Second Language, which is similar in methodology to the ESL training previously described.[172] In addition, the entire curriculum is geared to language development.[173] Ideally, teachers, curricular materials, and program structure are specifically selected for effective development of bilingual skills. Teachers in bilingual bicultural programs, whether or not they are second language instructors, know techniques of bilingual skills development so that language instruction also takes place in subject matter classes. In all classes, curricular materials are designed for the language proficiency level of the students and provide relevant cultural content. The program structure takes into account the level of English language proficiency of the child at each stage of development in order to regulate English language training and the amount of unstructured practice and exposure to English in both cognitive and noncognitive areas such as music, art, or gym. Because the children develop verbal skills in their native language, the language they know best, they are able to develop confidence in their ability to express themselves. This confidence can be important in the development of good verbal skills in English. Furthermore, English

---

[169] Transcript of New York hearing, p. 50.

[170] Saville and Troike, Handbook of Bilingual Education.

[171] Wallace E. Lambert, a Canadian linguist who has conducted extensive research in bilingualism, has recently concluded 12 years of research on the effects of attitudes, beliefs, and motivation in second language learning. See his and Robert C. Gardner's book: Attitudes and Motivation in Second Language Learning (Rowley, Mass.: Newbury House, 1972).

---

172. See pp. 22-23 of this report. For a description of the audio-lingual method conceived for bilingual bicultural programs see Miles Zintz, What Classroom Teachers Should Know About Bilingual Education. (Albuquerque, N.M.: University of N.M., Mar. 1969) and Muriel Saville and Rudolph Troike, Handbook of Bilingual Education.

173. For a description of bilingual bicultural programs and the emphasis on language development, see Guide to Title VII ESEA Bilingual Bicultural Projects in the United States, 1973-74 (Austin, Tex.: Dissemination Center for Bilingual Bicultural Education).

instruction in bilingual bicultural programs follows accepted language teaching methodology by developing in sequence the four language skills of listening comprehension, speaking, reading, and writing. Children do not learn to read and write English until they have learned the oral skills of listening and speaking. This is one of the most important distinctions between the English skills development in ESL pull out programs and bilingual bicultural programs.

Attitudes.--Although a positive self concept is important to learning in general, it is especially crucial in second language learning. As was discussed earlier, children's self concepts are formed by the image of self conveyed by others around them. In addition, children who feel unacceptable to a particular group of persons not only develop poor self concepts because they feel threatened but also form negative attitudes toward that group. Because successful, second language learning involves viewing the second language group in a positive manner or wanting to identify with that group,[174] negative attitudes jeopardize second language learning. This is why Wallace E. Lambert, the Canadian linguist who has researched the effects of attitudes, beliefs, and motivation in second language learning, states that,

---

[174] Wallace E. Lambert, "Culture and Language as Factors in Learning and Education," McGill University, Presented at the 5th Annual Learning Symposium on "Cultural Factors in Learning," at Western Washington State College, Bellingham, Wash.: Nov. 1973.

> ...feelings of social uncertainty or dissatisfaction which often characterize the immigrant and the bilingual may also, we believe, affect the serious student of a second language. 175

By giving the language and culture of the language minority child recognition within the curriculum, bilingual bicultural education allows the child to feel acceptable as a language minority individual and thus to develop positive attitudes towards learning English and the dominant cultural group.

> Psycholinguistic[176] research...although only now getting underway, indicates that the hypenenated American can perhaps most easily become fully and comfortably American if the Spanish, Polish, the Navajo or the French prefix is given unlimited opportunity to flourish. 177
>
> One can with the proper attitudinal orientation and motivation become bilingual without losing one's identity. In fact, striving for a comfortable place in two cultures seems to be the best motivational basis for becoming bilingual. 178

---

175. Lambert and Gardner, Attitudes and Motivation in Second Language Learning, p. 13.

176. Psycholinguistics is the study of the mental processes underlying the acquisition and use of language using the theoretical and empirical tools of psychology and linguistics. Slobin, Psycholinguistics, introduction.

177. Lambert, "Culture and Language as Factors in Learning," p. 139.

178. Lambert and Gardner, Attitudes and Motivation, p. 130.

Research on Bilingualism and Bilingual Bicultural Education

Research in the field of bilingualism and bilingual education is inconclusive as to any adverse affect on language or cognitive development. Yet some studies have been used to suggest that bilingualism, the end goal of bilingual bicultural education, negatively affects intelligence and creates identity confusion in bilingual individuals. In the vast majority of these studies, bilingual children scored lower on IQ and other tests.[179] Other studies seem to support the contention that a monolingual education with or without ESL, the immersion approach,[180] can equalize educational opportunity for language minority children in this country, since the incentive for learning English would appear to be greater when children are forced to communicate in English.[181]

---

[179] The tests generally measure all areas: intelligence (verbal and non-verbal IQ), verbal ability, and achievement in subject matter. For a review of these studies see John Macnamara, Bilingualism and Primary Education: A Study of Irish Experience, (Edinburgh, Scotland: Edinburgh University Press, 1966), pp. 9-43; Einar Haugen, Bilingualism Language Contact, and Immigrant Languages in the United States: A research Report 1956-1970, Boylston Hall, Harvard University, stenciled version (to appear in Current Trends in Linguistics, ed. Thomas A. Sebook, vol. 10., The Hague: Mouton), pp. 58-77; Seth Arsenian, Bilingualism and Mental Development; Elizabeth Peal and Wallace E. Lambert, "The Relation of Bilingualism to Intelligence", Psychological Monographs: General and Applied, vol. 76, no. 27, 1962; Amado M. Padilla and Rene A. Ruiz, "Measurement of Intelligence", A Review of Literature, Review pursuant to Contract No. HSM 42-72-61 with the National Institute of Mental Health, Health Services and Mental Health Administration, Department of Health, Education, and Welfare, (Washington, D.C.: U.S. Government Printing Office, 1973), pp. 65-94.

---

[180] The term "immersion" is used to characterize a language learning approach which does not resort to the native language of the learner for explanations or for comparison purposes. Grammar is not taught. The language is learned through exposure and usage. For the purposes of this report, the term is also used to describe the learning of a second language by children in schools which utilize only the second language as a medium of instruction. The curriculum may or may not be specifically geared to second language learning. It may be the same curriculum used for native speakers of the language and it may or may not include an ESL component.

[181] For a review of these studies see Patricia Lee Engle, "The Use of the Vernacular Languages in Education: Revisited," (Chicago: University of Illinois at Chicago, May 1973). Engle discusses contradictory findings and controlled variables of the studies. Also see Paulston, Implications of Language Learning, who discusses the contradictions of findings, the lack of uniformity of research design, and the biases of the researchers.

These studies, however, frequently have methodological shortcomings. In studies on bilingualism, results were unreliable or inaccurate because of the failure to consider such factors as competency of the child in the language, socioeconomic status, and cultural bias in tests.[182] The studies which show positive results for the immersion approach have limited applicability for language minority groups in this country.

---

[182] Some of the studies on bilingualism and intelligence, discussed in the reviews of literature include: J.D. Saer, "The Effects of Bilingualism on Intelligence," *British Journal of Psychology*, vol. 14, 1923, pp. 25-38; Thomas R. Garth, "The Intelligence of Mexican School Children," *School and Society*, vol. 27, no. 705, 1928, pp. 791-794; R. Pintner, "The Influence of Language Background on Intelligence Tests," *Journal of Educational Psychology*, vol. 82, 1953, pp.21-57; George Sanchez, "Scores of Spanish-speaking Children on Repeated Tests", *Journal of Genetic Psychology*, vol. 40, no. 1, 1932, pp. 223-231; Natalie Darcy, "The Effect of Bilingualism upon the Measurement of the Intelligence of Children of preschool Age", *Journal of Educational Psychology*, vol. 82, 1953, pp. 21-57; Granville B. Johnson, "Bilingualism as Measured by a Reaction-time Technique and the Relationship between a Language and Non-language Intelligence Quotient.", *Journal of Genetic Psychology*, vol. 82, no. 1, 1953, pp. 3-9; Ted Christiansen and Gary Livermore, "A Comparison of Anglo American and Spanish American Children on the WISC," *Journal of Social Psychology*, vol. 81, no. 1, 1970, pp-9-14. Padilla and Ruiz discuss studies in "The Measurement of Intelligence" of Spanish speaking Spanish surnamed children and show how "the influence of social class," deficiency in English verbal skills," age in relation to second language development, and cultural differences can distort IQ testing, pp. 65-94. Macnamara discusses how many researchers failed to control bias including socioecomonic status, ratings of teachers, ability to teach, and non-verbal IQ. *Bilingualism and Primary Education*, p. 11.

Bilingualism, Intelligence, and Identity

Language Dominance and Ability.--Most of the studies concluding that bilingualism negatively affects a child's educational potential did not give adequate consideration to language dominance and fluency.[183] In those studies concluding that "bilingual" children were less capable than monolingual children, children who had spoken only their native language at home were expected to perform on IQ tests in English as though they had the same number of years of experience speaking English as native English speaking children. Children must be given the time and training to develop English skills.

Part of the problem with the inaccuracy of the studies is the use of the term "bilingual" to describe a variety of language abilities.[184] Mexican American children who begin school speaking only Spanish have been called "bilingual." In other cases, children were labeled bilingual" if two languages were spoken in the home with little regard for the extent of fluency in either of the languages. High school students after several years of studying a foreign language have also been considered "bilingual."

---

183. For a review of these studies see Macnamara, Haugen, Arsenian, Peal and Lambert, and Padilla and Ruiz.

184. John Macnamara defines a bilingual as a person who possesses skill even to a minimal degree in at least one of the language skills (listening, speaking, reading, or writing), in the second language. "The Bilingual's Linguistic Performance - A Psychological Overview," *Journal of Social Issues*, vol 23, no. 2, 1967, pp. 58-77. Andrew Cohen defines a bilingual as "a person who possesses at least some ability in one language skill or any variety from each of the two languages." Chapter 1, "Bilingualism", *A Sociolinguistic Approach to Bilingual Education, Experiments in the American Southwest*, (Rowley, Mass.: Newbury House, forthcoming).

In the face of confusion over the definition of bilingualism, a child's control over a second language can easily be overestimated without formal testing. Children are quick to develop authentic pronunciation and considerable fluency in speech long before they develop full control over reading, writing, and thinking in a second language. They are also quick to respond to teachers' commands, even though they may have only partial understanding of linguistic signals, because they are responding to gestures and the particular situation. This does not indicate that the child either has full control of the language or can function creatively in the language. For example, Navajo children at the Rock Point School in Arizona speak and understand English well enough to communicate with visitors at the third grade level. Teachers indicated, however, that they could not use the language for independent and creative thinking until after the sixth grade.[185] On the other hand, many Puerto Rican children at Potter Thomas School in Philadelphia, Pennsylvania, who had greater exposure to English outside the school, were ready for creative and independent thinking in English at the third grade level.[186]

---

[185] Interview with Grace Petus, native English speaking teacher of of sixth grade class, Rock Point School, Ariz., Navajo Reservation, Apr. 25, 1974. Dr. Elizabeth Willink, English Language Specialist at Rock Point, states that most students are probably not ready for independent and creative thinking in English until they are well into junior high school. Telephone interview, Feb. 26, 1975.

[186] Classroom observation made by Commission staff of children solving math problems, Philadelphia, Pa., Mar. 27, 1974.

As a basic maxim, before children's abilities are tested in any language, their language proficiency in that language must be determined.[187] It is important that verbal abilities, reading, and IQ be measured in the dominant language or in the language that the child controls best. That language is usually the native language. Thus, any test of abilities and skills must be preceded by establishing the range of ability within each language that the child speaks. Since IQ tests purport to measure cognitive ability, an IQ test administered through a language that the child has not fully developed is not an accurate assessment of intelligence.

Despite the fact that verbal and reading tests do reflect rather accurately the skill level achieved in the language in which the test is administered, verbal and reading skills achieved in one language do not reflect verbal and reading ability in another language. In addition, the English skills of bilingual children cannot be compared with those of monolingual children unless bilingual children have had sufficient time and exposure to develop English verbal abilities before being tested by the same standards as monolingual children in that language.[188]

---

[187] Language proficiency is a person's ability in a language which is not native to him or her. Language proficiency should be distinguished from maturational language development. A child learning a second language is considered proficient when he or she speaks as well as a native child of the same age, rather than as well as an adult speaker of the language. For a discussion of the language proficiency assessment process see pp. 106-113 of this report and Eugene Briere, "Are We Really Measuring Proficiency with Our Foreign Language Tests?", The Language Education of Language Minority Children, ed. Bernard Spolsky (Rowley, Mass.: Newbury House, 1972).

[188] Macnamara states that "it seems clear that part of the reason that bilingual children were so often found inferior to monoglots (monolinguals) is that bilinguals had not enough time to learn the language in which they were compared with monoglots." Bilingualism and Primary Education, p. 37.

Language dominance must also be taken into consideration in measuring math and problem-solving skills. Recent research indicates that functioning in a weaker language slows down problem-solving processes because the child has both the problem and the language to contend with.[189]

Cultural and Socioeconomic Background.--The cultural background of the child also must be considered before testing can be truly indicative of the child's intelligence or knowledge. All tests have built-in cultural biases because "the kinds of semantic distinctions made by a language system reflect the interests and concerns of the people using that system."[190] Although children might understand a particular word, if they have had little exposure or experience with the concept and the contexts that the word invokes, they still are at a decided disadvantage.[191]

---

[189] John Macnamara, "The Effects of Instruction in a Weaker Language," Journal of Social Issues, vol. 23, no. 2, 1967 p. 122.

[190] Philip K. Bock, Modern Cultural Anthropology, (New York: Alfred A. Knopf, 1969) p. 43.

[191] A study "investigated the role of breadth of experience with objects and number of different verbal contexts used when presenting the objects on the formation of concepts. In one experiment using children about 20 months of age, the concept of 'doll' was investigated. The children were shown a doll 1500 times in the course of several months. For one group the experimenter employed only three statements: 'Here's a doll,' 'Take the doll and 'Give me the doll.' For the other group, 30 different statements...were employed....the group that had experienced more variety in the verbal contexts accompanying the objects showed superior performance on a test where they had to select dolls from among other toys." See Herbert J. Klausmeir, Elizabeth Schwenn Ghatala, and Dorothy A. Fayer, Conceptual Learning and Development (New York: Academic Press, Inc. 1974), p. 146. Also see section on Cognitive and Language Development, pp. 41-47.

Lack of awareness of the effects of socioeconomic status has resulted in invalid interpretation of test results. The great majority of the studies on bilingualism have not compared bilinguals with monolinguals of the same socioeconomic status, but have matched monolingual English speakers with bilinguals of lower socioeconomic status.[192] And in most studies comparing the performances of monolinguals of different socioeconomic status, the groups with lower socioeconomic status have scored lower.[193] Therefore, bilingualism itself cannot be considered the only reason for poor test performance.

The socioeconomic bias of a test reinforces the language and cultural bias and puts the test taker at a disadvantage. It is likely that children taking biased tests would have scored higher if they had been tested in their dominant language and if the tests had not included information foreign to their cultural experience. One controlled study, for example, even suggests that bilingual individuals

---

192. Those individuals who are commonly designated 'bilingual' (they are often not bilinguals but monolingual speakers of a language other than English) in this country are also those who bearing the brunt of many forms of discrimination tend to be of a low socioeconomic status such as Mexican Americans, Native Americans, Puerto Ricans, and many immigrant groups.

193. For a discussion of socioeconomic status as a factor influencing IQ tests see Edmund Gordon, Compensatory Education for the Disadvantaged, (New York: College Entrance Examination Board, 1966), pp. 12-23; and Ronald J. Samuda, "Racial Discrimination through Mental Testing: A Social Critic's Point of View," ERIC Information Center on the Disadvantaged Bulletin, No. 42, May 1973. For a review of studies with socioeconomic bias see Padilla and Ruiz, Macnamara, Arsenian, and Peal and Lambert.

may be more "mentally flexible."[194] However, there is no conclusive evidence to the effect that this is true one way or the other. The exact relationship between bilingualism and intelligence is not known.

Monolingual Education vs. Bilingual Bicultural Education

Research indicates that in some circumstances children can and do learn successfully through the medium of a second language, despite the fact that it increases the learning task. Children all over the world of the most advantaged social and economic groups attend school in a second language and show no adverse effects.[195]

---

[194] The effects of bilingualism on intellecutal functioning were explored by Elizabeth Peal and Wallace Lambert. Monolingual and bilingual 10 year old French children from six Montreal schools in Canada were tested for verbal and non-verbal intelligence. The bilinguals performed significantly better than the monolinguals on both the verbal and non-verbal intelligence tests. Peal and Lambert propose several hypotheses to explain the superiority of the bilinguals. "People who learn to use two languages have two symbols for every object. From an early age, bilinguals may be forced to conceptualize environmental events in terms of their general properties without reliance on their linguistic symbols."..."Monolinguals may be at a disadvantage in that their thought is always subject to language." Another hypothesis suggested is that "the bilinguals may have developed more flexibility in thinking" because compound bilinguals (for a definition of compound bilingualism see page 135 of this report) typically acquire experience in switching from one language to another," "The Relation of Bilingualism to Intelligence," pp. 20-22.

[195] See, for example, Wallace E. Lambert and G. Richard Tucker, Bilingual Education of Children, (Rowley, Mass.: Newbury House, 1972).

Most recently, the St. Lambert Experiment, in Canada[196] showed that upper middle class children are not handicapped when taught the cognitive areas in a second language.[197]

In this country, however, the fact remains that many language minority children have not achieved their maximum educational potential by attending monolingual English schools. If they do not succeed in these English language schools, it is not because they are innately incapable of doing so, but because other factors have had an adverse effect on language learning and learning in general.

---

196. St. Lambert Experiment conducted by Wallace E. Lambert and G. Richard Tucker, September 1966-1971. An experimental group of native English speaking children followed a curriculum totally in French for the first 2 years of school, including kindergarten and first grade. Thereafter, they received 1 hour of English language arts a day plus noncognitive subjects such as art, music, and physical education in English. All cognitive areas were taught in French. At no time did these children receive specific instruction in French as a second language and in no way was the curriculum modified to accommodate any learning problems resulting from difficulty with the language. The curriculum was designed for native French speakers. Test results of these native English speaking children were compared with control groups of native English speaking children following a curriculum totally in French. Both of the control groups received one hour a day of second language instruction. Ibid.

197. Lambert and Tucker conclude that: "After five years we are satisfied that the Experimental program has resulted in no native language or subject matter (i.e. arithmetic) deficit or retardation of any sort, nor is there any cognitive retardation attributable to participation in the program, in fact, the Experimental pupils appear to be able to read, write, speak, understand, and use English as competently as youngsters instructed in the conventional manner via English. During the same period of time and with no apparent personal or academic costs, the children have developed a competence in reading, writing, speaking, and understanding French that English pupils following a traditional French as a Second Language program for the same number of years could not match." Ibid., p. 152.

Because language minority individuals have suffered the brunt of social, economic, and political discrimination, they tend to occupy the lower end of the socioeconomic scale. Research indicates that lower socioeconomic groups tend to achieve less academic success in American schools because the curricula are generally designed for children of middle class orientation.[198] Beyond this socioeconomic incompatibility with the monolingual cirriculum, the cultural and linguistic differences increase the incompatibility.[199] Moreover, the learning of English signals the language minority child's minority status within society. As stated previously, the acquisition of a second language depends not only on exposure and practice, but also on attitudes of the group towards itself and other groups, and towards its own and the other language. The fact that English has been imposed on

---

198. For a discussion of the research on the characteristics of children from low income groups,see Edmund W. Gordon and Doxey A. Wilkerson, "Pupil characteristics and theoretical bases for compensatory education," Compensatory Education for the Disadvantaged, pp. 11-22.

199. "The incompatibility of language, even coupled with culture, is not the sole source of the problem. It is language, and culture, and poverty, and mobility, and perceptions in tandem which account for the poor performance of minority children." For a full discussion of this incompatibility see Jose A. Cardenas, "An Education Plan for The Denver Public Schools," submitted to court for desegregation plan, Keyes v. The Denver School District No. 1, Civil Action No. C-1499, filed Feb. 5, 1974.

language minority children has had a strong adverse effect on the second language learning process within a totally monolingual environment.[200]

When discrimination and negative socioeconomic conditions do not exist, children are more likely to show no linguistic or cognitive deficit when being instructed through the medium of a second language. A case in point is the Culver City Spanish Immersion Program in California for native English speaking Anglo children,[201] which is similar in design to the St. Lambert Experiment. These children, as those in the St. Lambert Experiment, were of middle class backgrounds and belonged to the dominant linguistic and cultural group. Rather than being compelled as a minority group to learn a second language, students were considered privileged to be receiving instruction through that medium.[202] Such attitudes positively affect second language learning.

---

[200] Bruce Gaarder states that "studies which have attempted to take into account all of the factors which enter the relationship (low performance on intelligence tests to bilingualism) show that it is not the fact of bilingualism,but how,to what extent, and under what conditions the two languages are learned that makes the difference." "Pedagogical and Other Implications of Bilingual Education,"unpublished paper prepared for the Puerto Rican Legal Defense and Education Fund, July 1974. Susan Ervin-Tripp states that "we now are beginning to see the functions of language in the life of the speaker as of far more importance in its acquisition than we had realized." "Structure and Process in Language Acquisition," Monograph Series in Language and Linguistics 21st Annual Round Table, ed. James E. Alatis, (Washington, D.C.: Georgetown University Press, 1970). p. 314.

[201] The Culver City Spanish Immersion Program was designed for native English speaking Anglo children in the western part of greater Los Angeles. Test results indicate that after two years in the program, K and first grade, "The English-speaking students are acquiring competence in understanding, speaking, reading, and writing Spanish, while maintaining English-language proficiency. These students are also performing on a par with their English speaking age group in content subjects such as mathematics." Andrew D. Cohen, "The Culver City Spanish Immersion Program: The First Two Years," The Modern Language Journal, vol 58, no. 3, Mar. 1974, p. 103.

Strong support provided by teachers and parents also appears to enhance the success of this immersion approach. The expectation levels of teachers, which influence success, are more likely to be based on a realistic appraisal of the difficulty of the learning task and the student's capacity at each stage of development.[203] In the case of language minorities in this country, many teachers either have assumed that such children could not learn as well as Anglo children or have expected them to perform as native speakers. Language minority children who are judged by the same norms as native speakers without consideration for the level of second language development, "are subjected to unwarranted feelings of failure, fear and frustration."[204]

---

[202] Of the St. Lambert Experiment, Ervin-Tripp says "Their social group has power in the community; their language is respected, is learned by Francophones, /French speaking/, and becomes a medium of instruction later in school." "Structure and Process of Language Acquisition," p. 314. Lambert made the following statement when asked about the validity of comparing the St. Lambert Experiment student with language minority students in the United States: "The contrast...between Spanish American children who are coming into a school system in the United States and learning English is not a valid parallel. For the minority group in the United States, giving up the home language and entering an American school is like kissing his home language goodbye. In the case we are dealing with, /St. Lambert/ however, English is clearly the most powerful language, so much that these parents can be sure to have English skilled children who can afford to learn some French. The contrast is a strong one." Discussion with Dr. Lambert at 21st Annual Round Table on Bilingualism and Language Contact as printed in *Monograph Series on Language and Linguistics*, p. 276.

[203] For example, of the St. Lambert Experiment Ervin-Tripp says that "in the classrooms, the children are not expected to compete with native speakers of French in a milieu which both expects and blames them for their failures, and never provides an opportunity for them to excel in their own language." "Their teachers do not have low expectations for their achievements." "Structure and Process of Language Acquisition," p. 314.

The opportunity to develop balanced or full bilingualism[205] is another factor in determining the success of a language program. Though there is no conclusive evidence to establish a definite correlation, there are indications that second language skills can be more effectively developed if an individual is afforded the full opportunity to develop the native language.[206] This opportunity has not been given to many language minority children in this country.[207]

---

[204] Russell N. Campbell, "English Curricula for Non-English Speakers," Monograph Series of Language and Linguistics, 21st Annual Round Table, p. 308.

[205] A simplified definition of balanced or full bilingualism is "persons who are equally skilled in two languages." John Macnamara, "The Bilingual's Linguistic Performance - A Psychological Overview," p. 60.

[206] In addition, Gaarder states that much of the literature on the negative effects of bilingualism "does not deal at all with bilingual education. Rather it shows the unfortunate results when the child's mother tongue is ignored, deplored, or other wise degraded," "Pedagogical and Other Implications of Bilingual Education," p. 4. In those studies which deal with the negative effects of bilingualism in the United States the bilinguals who were examined were the products of the monolingual English school system, did not have the opportunity to develop the full range of expression in their native tongue, and were not provided ESL instruction.

Children of a dominant language or cultural group, who are learning through the medium of a second language, such as the English speakers in the St. Lambert Experiment and the Culver City project, maintained and developed control over their native tongue, despite the fact that the language was not used as a medium of instruction. The necessary verbal experience in English was provided outside the school, in the home and the larger society. Language minority children in many areas of the United States may not have the extensive societal reinforcement necessary to develop the full range of expression in their native language without school instruction.

The positive effects of developing expression in the native language are shown by one recent experimental study in Chicago, Illinois, which disproves the theory that language minority children learn more English in a monolingual English school than in a bilingual bicultural program. Children enrolled in an ESL program were compared with children in a bilingual program who received 25 percent less instruction in English. There were no statistically significant differences in English achievement between the two groups of kindergarten and third grade Spanish speaking children

---

207. In Arizona, California, Colorado, New Mexico, and Texas, for example, only 2.7 percent of Mexican American children were enrolled in bilingual education programs, while an estimated 50 percent were in need of a language program. The Excluded Student, p. 22.

who were tested.[208]

Children in the Chinese bilingual bicultural program in San Francisco were compared with children receiving ESL instruction. The bilingual program children at the third grade level were found to be 4 months ahead of children in ESL programs in reading. In math, these children tested 5 months ahead of national norms and a year and one-half ahead of the ESL children.[209]

A study in Chiapas, Mexico, with non-Spanish speaking Indians tested the hypothesis that children of linguistic minorities learn to read their second language with greater comprehension when all reading instruction is offered through the second language rather than through the native language. The results showed that the Mexican Indian children, who had first learned to read their native language and had then transferred to Spanish, read Spanish with greater comprehension than those who had learned to read directly in Spanish.[210]

---

208. Ned Seelye, Rafaela Elizondo De Weffer, and K. Balasubramonian, "Do Bilingual Education Programs inhibit English Language Achievement? A Report on an Illinois Experiment." Paper presented at the Seventh Annual Convention, Teachers of English to Speakers of Other Languages, San Juan, Puerto Rico, May 9-13, 1973.

209. Title VII bilingual third graders included children at Commodore Stockton and St. Mary's schools. The ESL control group included children from 3 schools, Commodore Stockton, Jean Parker and Spring Valley. Thomas E. Whalen and Barbara Jew, San Francisco Unified School District, Title VII Chinese Bilingual Program, Annual Evaluation Report, Aug. 1973, 1971-1972 Title VII Chinese Bilingual Program, Annual Evaluation Report, Aug. 1973, Evaluation Associates Development of Educational Psychology, California State University Hayward, Cal.

210. Nancy Modiano, "National or Mother Language in Beginning Reading. A Comparative Study," Research on Teaching English, 1968, pp. 32-43. This finding is also supported by a study conducted in Sweden by Tore Osterberg, Bilingualism and the First School Language (Vasterbottens Tryckeri AB-Umea, 1961) in which Swedish children who speak Pitean, a Swedish dialect, initially were taught Pitean.

Bilingualism and biculturalism, which are strengthened by bilingual education, have also sometimes been thought to cause identity confusion. Children from non-English speaking homes or from bilingual homes are thought to have some problems coping with two cultures. One researcher has discussed "the anguish of members of ethnic groups when caught up in a subtractive form of biculturalism, that is, where social pressures are exerted on them to give up one aspect of their dual identity for the sake of blending into a national scene."[211] Bilinguals in this country are likely to develop identity and culture conflicts in English monolingual schools. Many of these children become ashamed of their language and will not even admit to being able to speak it.[212] This shame has been partially credited with juvenile delinquency problems among language minority children who become estranged from their parents.[213]

---

[211] Lambert, "Culture and Language as Factors in Learning and Education," pp. 26-27.

[212] Saville and Troike, A Handbook of Bilingual Education, p. 21.

[213] Chinese parents are concerned over the estrangement and alienation developing in their children who feel ashamed of their Chinese background. One of the primary objectives of the bilingual program is to minimize parent-child conflicts and juvenile delinquency. Antoinette Shen Metcalf, Project Director of the Chinese Bilingual AB 116 Project at Marina Junior High School, interview May 2, 1974, in San Francisco, Cal. This problem was apparent when Commission staff interviewed a sixth grade Chinese student enrolled in the monolingual English program of Patrick Henry School in San Francisco. This student, who had immigrated from Hong Kong 6 months prior to the interview, stated that he hated to speak Chinese. May 1, 1974.

Rather than compounding this identity confusion, bilingual bicultural education strengthens the child's identity. It enables children to understand and appreciate their bilingual and bicultural natures and thus turns a liability into an asset.

USAGE OF BILINGUAL BICULTURAL AND ESL APPROACHES

The ESL pull out, ESL support component, intensive ESL with subsequent pull out or support component, and bilingual bicultural education approaches described in the previous sections are means for providing language minority children with an equal educational opportunity. No one approach should be arbitrarily implemented for all language minority communities. Sociolinguistic studies[214] conducted prior to implementation of any of the programs help determine their potential success.[215] Such studies should include an analysis of the percentage of individuals speaking the minority language in the school community, the English proficiency level of the students to be served, the attitudes of the language minority group and the majority cultural group toward one another, cultural isolation, and the desire of the minority community for nurturing the minority language and culture.

Because the educational aspirations of parents for their children affect the success of language programs, those aspirations must be examined in determining the likelihood of success of any of the approaches. Many communities want to preserve their language and culture and take measures to do so by sending their children to after-school classes for instruction in the native language and historical traditions.[216] These communities place an extra academic burden on their children, who would fare better if such instruction were included in the regular school curriculum in the form of a bilingual bicultural program. In addition, children would be less likely to feel culturally and linguistically separate or different if their native language and culture were given the same recognition as English. The ESL approach for these children could present a serious conflict, since at home they receive the message that the native language and culture are important and in an ESL program they receive the message that their language and culture are of little value. Efforts should be made to ensure that parental preferences are based on an understanding of the merits of each approach.

---

[214] In this report sociolinguistics refers to the social factors that influence language usage.

[215] For a discussion of how and why different sociolinguistic settings require different language programs see Bernard Spolsky, "Speech Communities and Schools," TESOL Quarterly, vol. 8, no. 1, Mar. 1974, pp. 17-26. See pp. 118-119 of this report for a discussion of the assessment of the sociolinguistic setting.

The attitudes of one group toward another are also important to consider, since the experience of prejudice interferes with learning. The potential effectiveness of the ESL approach is diminished for language minority groups that have been the target of social, economic, and political discrimination. Bilingual bicultural education is appropriate for these groups because it gives the minority language and culture the same prestige in the curriculum as English.

As stated previously, the ESL approach is useful only to the extent that students do not fall behind in subject matter to the extent that they cannot recuperate. The ESL approach is useful when children

---

216. For example, Roger Tom, Curriculum Specialist, Commodore Stockton Bilingual Program in San Francisco, stated that many Chinese children attend classes in Chinese language and history after school hours. Interview, Apr.30, 1974, in San Francisco, Cal.

begin school with some English skills and when the English learned in the ESL class is reinforced and complemented through usage outside the class, on the playground, in the homes of friends, in the neighborhood, and by exposure to television. However, bilingual bicultural education is the appropriate approach for children who are geographically isolated and receive little exposure because it allows them to learn math, social studies, science, and to develop verbal ability in their native language while they are learning English.

The amount of exposure to and contact with English can be determined by examining the percentage of non-English speaking individuals in the community. The greater the number of individuals who speak the minority language the greater the linguistic reinforcement of that language, and the less the reinforcement of English. Because cultural isolation can exist even where the proportion of language minority persons to cultural majority persons is small, it should also be taken into account. In those communities where the language minority group controls neighborhood stores, restaurants, and services and participates in cultural, religious, and political activities, there is little need for or exposure to English. Where there is frequent immigration of individuals from the native land, there will be a greater tendency for linguistic and cultural distinctiveness to be maintained.

Though all these factors must be considered before implementing a language program, as a guide to school districts and communities, the following table has been set up based on two of the most important variables: the percentage of language minority individuals within the school community and the English language proficiency level of the students to be served. This table is based on a generalization about what is known of second language acquisition. Other factors, such as individual ability, personality differences, and attitudes toward learning the second language have not been taken into account.

Percentage of the School Community Population That is Language Minority*	English Language Proficiency Level		
	Low	Moderate	High** (native-like ability)
High (40% and up)	Bilingual Bicultural Education	Bilingual Bicultural Education	
Moderate (10%-39%)	Bilingual Bicultural Education	Bilingual Bicultural Education	
Low (0-9%)	Intensive ESL or Bilingual Bicultural	ESL pull out of English Support Component	

* Percent composition of language minority children should not exclude also examining absolute numbers of language minority children. For example, 10 language minority children within a single first grade, though forming less than 10 percent of the total school enrollment would be large enough to warrant a fully integrated bilingual bicultural program if English speaking children were also included in the program.

** Students who have no difficulty in school due to English language insufficiency.

In this table the term "low language ability" is used to describe those children who have no ability in English or who understand it to some degree but cannot speak it. "Moderate language ability" describes those who understand but are limited in their second language speaking ability. "High language ability" is not a concern.

The concentration of language minority children has been divided into three categories: "low" represents school communities in which the language minority group does not exceed 9 percent, "moderate" represents between 10 and 39 percent, and "high" represents over 40 percent.

As the table illustrates, school communities which have high and moderate concentration of language minority individuals with low or moderate English language ability should receive bilingual bicultural education. Those having a low language minority concentration with low English language ability should receive either intensive summer or preschool ESL with subsequent pull out or support component, or bilingual bicultural education. Students with moderate English language ability who live in communities with low language minority concentration may be successful in ESL pull out programs. The purpose of this table is to provide an overall guide for implementation of programs. Percentages should not be taken literally.

This table assumes a concentration of one language minority group in the population. However, many large urban centers have numerous language minority groups, which, though small in size individually, make up a large percentage of the population together. Where this is true, adjustments in the table must be made to take into account that children are exposed to other non-English speaking, language minority groups and will not develop English skills to the same extent as if they had been exposed only to English speakers.

Attaining fluency in English should be the major consideration in determining the number of years to be covered in a selected program.

Four States--Massachusetts, Texas, Illinois, and New Jersey--stipulate 3 years as the minimum duration of bilingual bicultural programs. In fact, it is impossible to prescribe how long individual programs should last, since the time required to learn English is affected by societal exposure to English. Each language minority community is exposed to different amounts of English. For example, Navajo children who live on the Navajo Reservation and are isolated from English speakers may need 12 years of bilingual bicultural education. In some areas of the Southwest, particularly those that receive continual immigration from Mexico, Mexican American children might need at least 6 years of bilingual bicultural education.

CHAPTER 3

BILINGUAL BICULTURAL EDUCATION AND PROGRAM STRUCTURES

While increasingly more schools are concluding that bilingual bicultural education is a promising alternative for providing language minority students equal access to the educational system, many are at a loss when it comes to actually implementing programs. This uncertainty is due to the complexity of using two languages and cultures as mediums of instruction and to the seemingly infinite possibilities in program designs.[217]

In general, little research has been conducted on effective designs for bilingual bicultural education programs. Funds appropriated under the Bilingual Education Act[218] have been supporting demonstration programs rather than identifying and developing the best methods for teaching children of limited English speaking ability. As a result, not enough is known about which instructional approaches, teacher training programs, and materials are the most useful for different situations.[219]

Despite the overall lack of coordination and shared information on the subject, many effective bilingual bicultural education programs exist. It was apparent from Commission staff's onsite observations to four programs in Philadelphia, Pennsylvania, Johnstown, Colorado, Rock Point, Arizona, and San Francisco, California,[220] that, although they they differ greatly in scope and structure, successful programs share a conscious consideration of student needs in setting educational goals and in designing the instructional program. This chapter describes bilingual programs in greater detail and examines the types of assessments necessary for effective programs.

---

[217] William F. Mackey gives a detailed description of a variety of different bilingual bicultural education designs. He discusses the distribution of the two languages throughout the learning experience, both structured and unstructured, which results in a number of different patterns. "A Typology of Bilingual Education," in Andersson and Boyer's _Bilingual Schooling in the United States_, pp. 73-82.

[218] 20 U.S.C. §880b et seq. (1970).

[219] Rudolph Troike and Muriel Saville note the need for research in these areas in _A Handbook of Bilingual Education_, pp. 65-66.

DESCRIPTIONS OF BILINGUAL BICULTURAL EDUCATION PROGRAMS

Basic Design

Bilingual bicultural programs often begin with one or more classes of children in the early grades, e.g., pre-kindergarten, and first grade, since children build learning skills and concepts in their early years at school[221] and can learn languages most easily through puberty. Bilingual bicultural education programs at the junior and senior high school levels are rare and usually are for students who have not had bilingual bicultural education in elementary school.[222] The Philadephia and San Francisco programs both had junior high and high school components, for example, to meet the needs of the constant influx of non-English speaking students of all ages. Such programs typically offer both subject matter in the native language or in English to enable students to complete secondary school and intensive ESL instruction.

---

[220] The locations of the visited programs and the ethnicities of their respective student populations are as follows: Philadelphia, Pa. (Puerto Rican); Johnstown, Colo. (Mexican American); Rock Point, Ariz. (Native American); and San Francisco, Cal. (Asian American). The four programs were selected as a result of consultation with Title VII staff, review of Title VII individual program evaluations, and preliminary visits to 18 Title VII programs across the country. Criteria for selection were as follows:

1) They serve four of the major language groups in the country;
2) Two operate in urban and two in rural settings;
3) They are integrated to different degrees with English dominant children;
4) They operate at different levels, i.e., elementary, junior, or senior high school;
5) They have been in existence for at least 3 years; and
6) They have demonstrated some degree of success.

Illustrations used throughout this section are based simply on information gathered by Commission staff through observation of these programs, and not on results of any systematic evaluation of a large sampling of bilingual bicultural education programs.

[221] Students in high school spend more time in information acquisition than on building skills.

Bilingual bicultural programs usually operate side by side with the English monolingual program in the same school. In schools which house the Johnstown and San Francisco programs, there are two bilingual classrooms and several English monolingual classrooms at each grade level, so that Anglo and Mexican American children can choose which they prefer. Both the Rock Point School on the Navajo reservation and the Spanish program in the Potter Thomas School in Philadelphia are examples of bilingual bicultural programs which include an entire school, with all children participating in the program.

The content of what students learn in a bilingual bicultural classroom is similar to what students learn in a monolingual English classroom except that it is learned through two languages and includes consideration for the cultural heritage of both groups of students. Students in a bilingual classroom, like other students, are provided

---

222. In the 1972-73 school year, for example, only 16 of 216 projects funded through the Bilingual Education Act served secondary schools. There were 176 in elementary schools, and 24 in other categories. Guide to Title VII ESEA Bilingual Bicultural Projects in the United States (Austin, Tex.: Dissemination Center for Bilingual Bicultural Education, 1972-73).

instruction in language skills, science, social studies, history, music, art, and physical education.

Although bilingual bicultural programs are often thought of as programs which only serve language minority children, English speaking children also benefit by such programs. Through bilingual bicultural education their learning of a second language is enhanced by contact with native speakers. In addition, some English speaking parents have chosen to place their children in bilingual bicultural programs so that they may be exposed to and develop a better understanding of other groups and cultures.[223]

While language minority children develop expression in their native language, English speaking children in the program are taught to develop and extend the full range of expression in their native language--English. In addition, language minority children are taught listening, speaking, reading, and writing skills in English, and English speaking children are taught a second language. Naturally, second language development for English speaking children in this country will be an even lengthier process than for language minority children since there is usually much less societal exposure to the minority language. Both groups receive subject matter instruction in their native languages until they have sufficient second language skills to receive subject matter in that language.

---

[223] Interview with parent of Anglo child in Chinese bilingual program, Apr. 30, 1974, in San Francisco, Cal.

Instruction

As has been discussed, bilingual bicultural education has two major elements. First, cognitive areas are introduced to language minority children in their native language until they have developed competency in English. Second, formal language instruction in both languages is provided.

The ways in which programs are actually structured to achieve these two major purposes differ according to the needs of different groups of students. For example, the development of proficiency in the second language proceeds at different rates in different programs for both language minority and native English speaking students. Chinese children in San Francisco are more likely to receive more exposure to English than Navajo children on the relatively isolated reservation in Arizona. Thus, the Chinese students spend less time in formal ESL instruction than do Navajo children. Since Navajo children cannot count on outside reinforcement in learning English, they receive most of their instruction in Navajo but have more intensive, prolonged English as a Second Language instruction.

In San Francisco, Chinese dominant students learn English more rapidly and more thoroughly than the English dominant students learn Chinese, because Chinese students receive more reinforcement of English in the outside community. Therefore, native Chinese speakers receive content instruction in English at a certain point, but native English speakers do not. In Johnstown, however, native English speakers are able to learn enough Spanish so that they can receive some content instruction in Spanish. Programs will often begin content instruction in the second language by first merely reinforcing in the second language what was already taught in the first language.

Bilingual bicultural education does not generally mean that children at all grade levels receive instruction in every subject in two languages at the same time. What it usually means is that students receive instruction in one language in some courses, and instruction in the second language in others, depending on the language ability of the children and the content of courses. It is possible for some classes to be taught in both languages at the same time.[224] For example, in the Philadelphia program, instruction is given concurrently in both languages in some first grade natural science classes where the children have different degrees of language dominance. Two teachers, one English dominant and one Spanish dominant, alternately present portions of the lesson in their own language and ask students questions. The students may respond in either of the two languages. In those classes observed where students had developed some proficiency in English, the two languages were used in a complementary and not a repetitive manner to present the lesson. Although instruction in all programs visited takes place in both languages concurrently in one or more classes, most programs keep instruction in each of the languages separate, and students receive instruction in each of the languages each day.

---

[224] This is sometimes referred to as the concurrent approach. One or two teachers provide content instruction in both languages to the same group of students. Although it allows students to use the language they control best, some educators disapprove of this approach for fear that students might eventually mix the language and/or never fully develop either language. Sometimes, English, the socially prestigious language,will predominate, to the neglect of the minority language. And sometimes, the language spoken by a greater majority of students predominates. Thus, the concurrent approach does not allow for easy control of exposure to and practice of either English or the minority language. Though the concurrent approach has been successful in some instances, there is no consensus of opinion as to its effectiveness. See Anderson and Boyer, Bilingual Schooling in the United States, p. 100. For a discussion of how free and frequent alternation in the use of the languages is used in a particular bilingual school see William F. Mackey, Bilingual Education in a Binational School (Rowley, Mass.: Newbury House June 1972), pp. 60-71.

In the Redwood City bilingual program in California, the concurrent approach was utilized primarily and resulted in substantial development of English for language minority children. The approach was less successful,however, in teaching Spanish to Anglo children, since Anglo students knew they could always shift to English. In addition, since language minority children learned English quickly through greater societal exposure to English, they used English with Anglo students. See Andrew Cohen, Sociolinguistic Approach and "The Culver City Spanish Immersion Program," Modern Language Journal.

In the Philadelphia program, in the early grades (pre-kindergarten, kindergarten, and first grade) classes had a mixture of both language minority and English speaking children. Each group of students received most of their instruction in their respective native languages and some instruction concurrently. By the end of the second grade, as students develop proficiency in their second language, approximately 50 percent of instructional time is spent in each language. This means that students receive some instruction together, such as math, while other instruction, such as language arts, is given separately in the native languages.[225]

---

225. Telephone interview with Eleanor Sandstrom, Director, Foreign Language Instruction, School District of Philadelphia, Jan. 31, 1975. The 50-50 instructional time in each language can sometimes result in the half-day approach, with morning instruction in one language, and afternoon, in the other.

In other programs students may receive instruction on one day in either the same subjects or in different subjects in one language, and the following day in the other language.[226] In the Chinese program in San Francisco, for example, two classes at each grade level are composed of an equal number of students of each group, dominant in one language or the other. The classes alternate every other day between an English and a Chinese teacher. The English monolingual teacher teaches English language arts, reading, writing, oral expression, and art. The Chinese teacher, who is bilingual, teaches social studies, Chinese as a Second Language, and mathematics, in English and Chinese.[227] A Chinese dominant aide teaches Chinese literacy to Chinese dominant children.

The initiation into a school of bilingual bicultural instruction has, in many cases, been accompanied by the introduction of other educational techniques.[228] For example, because bilingual bicultural instruction involves the use of two languages in the classroom, programs have found team teaching an effective method.

---

[226] This pattern of instruction is often referred to as the alternate days approach. For an example of how a bilingual program operates following this approach see G. Richard Tucker,"An Alternate Days Approach to Bilingual Education," Monograph Series on Languages and Linguistics, 21st Annual Round Table, pp. 281-299.

[227] The Chinese bilingual teacher teaches concepts to Chinese dominant children in Chinese, and concepts to English dominant children in English.

---

[228] Innovative educational approaches which have been developed in recent years such as open classroom and team teaching often have been difficult to implement within the educational system due to resistance on the part of many educators and administrators to new teaching techniques. A bilingual bicultural education program makes it possible to introduce both the innovative educational approaches and the new program at the same time. Commission staff found that both open classroom situations and team teaching approaches are frequently utilized in bilingual bicultural programs. Because of their capability for accommodating groups of various sizes and facilitating change from one grouping arrangement to another with a minimum loss of time, open classrooms are particularly conducive to teaching different groups of students of differing language proficiency and dominance. In bilingual bicultural programs, where students of two languages are at different stages of native language development and at different levels of second language proficiency, team teaching may make more effective use of the talents and interests of staff members, permit teachers to give greater attention to the individual student, and provide an effective means of using teachers of both languages to teach different subjects to different students.

Teachers and Training

As was previously mentioned, teachers' values, beliefs, attitudes, and expectations influence the student's chances for success or failure. Teachers also serve as role models, and influence the development of the student's self concept.[229] In bilingual bicultural education programs, particular attention is paid to teacher selection, since a number of diverse skills are needed in a curriculum which involves two languages and two cultures.[230]

Consideration of teachers for bilingual bicultural programs would cover their motives for teaching, linguistic and cultural backgrounds, competency in teaching in two languages,[231] and knowledge of specific subject matter. Because of the scarcity of trained and certified bilingual bicultural teachers, many bilingual bicultural programs have assumed the responsibility for designing and implementing their own teacher training programs.[232] This training ranges from training teachers in methodology of teaching subjects to students of different second language proficiency levels to providing language development training.[233]

---

[229] See Section on Self Concept, pp. 29-30.

[230] See "Guidelines for the Preparation and Certification of Teachers of Bilingual/Bicultural Education," prepared by the Center for Applied Linguistics, Arlington, Va., Nov. 1974.

[231] Knowing a specific language does not necessarily mean that an individual knows the terminology in that language to teach a specific subject. For example, a Spanish speaking teacher trained in English to teach math might not know the terminology necessary to teach that course in Spanish.

[232] The National Education Association, for example, has estimated that in order to bring about a ratio of Spanish speaking students to Spanish speaking teachers which more or less approximates the national need, 84,500 more Spanish speaking teachers would have to be employed nationwide. Using the same criteria, 7,400 more Native American teachers and 3,000 more Asian American teachers would have to be hired. "Statistical Projection of need for Spanish speaking Teachers, Fifty States and 18 Leading Cities" paper presented by Samuel B. Ethridge of the National Education Association, before the Albuquerque National Bilingual Institute: A Relook at Tucson, Nov. 30, 1973.

When the bilingual bicultural program at Rock Point began in 1971 very few Navajo teachers were qualified to teach in Navajo. A training program was designed to develop teaching competency among interested Navajos.[234] This training involves both teaching subject matter and teaching methodology. Navajos hired from the community receive intensive preservice training prior to teaching in the program. Once they begin to teach, further training consists of ongoing evaluations in the classroom by curriculum specialists, workshops in which various teaching methodologies are introduced to the Navajo language teachers for discussion, and, if possible, adaptation to the instruction of Navajo youth.

The program includes a university program, through which Navajo teachers can complete undergraduate teacher education. Two Navajo teachers are selected each semester for the program. During the semester, they observe good teachers, develop materials, and help other teachers use those materials in the classroom. After 3 years of this type of training, the Navajo teachers develop competency in teaching reading and mathematics in their native language and in preparing Navajo language curriculum materials. At the same time they are accumulate credits toward a teaching degree.

---

[233] Elizabeth Willink, English language specialist, Rock Point School, interview, Apr. 25, 1974, in Rock Point, Ariz.

[234] Ibid.

Similarly, the Philadelphia bilingual bicultural program had to train bilingual teachers before it began in 1969. Because there were almost no local, bilingual teachers holding State certification at the time, the School District of Philadelphia developed an agreement with the Pennsylvania State Department of Education to enable personnel undertaking bilingual teacher training to teach for 5 years without permanent State certification. Temple University agreed to provide the necessary courses for these teachers to obtain certification. Although the training program included a number of students with bachelor's and master's degrees who did not have State certification, some trainees were persons from the local Puerto Rican community, who were high school graduates with relevant community experience and who were interested in teaching.[235]

Student Grouping

In bilingual bicultural programs, students usually are grouped within the classroom according to their language proficiency and their grade level. Sometimes students who are dominant in the same language are grouped together across grade levels for second language instruction. This occurs when students of differing grade levels, new to the program, are at similar stages of language proficiency as children in already established groups.

Students need to be separated on the basis of language proficiency for language arts instruction in their respective native languages. Even in such situations, however, all children may remain together in the same classrooms, and use different sections of the room. In a second language instruction class in Johnstown, Colorado, a class of 30 students was divided into three groups each of English speaking and Spanish speaking children. The three individual groups worked at various levels of second language development in different parts of the room. A group of Spanish dominant children received ESL from one teacher, while a second group of English dominant children received English language arts from another teacher. A third group worked on English under the supervision of an aide. At the end of the period, teachers changed groups. English dominant children received Spanish as a Second Language instruction, Spanish dominant children worked on developing language expression in their native language, and a third group received English as a Second Language instruction.

---

[235] Eleanor Sandstrom, Director of Foreign Language Instruction, School District of Philadelphia, interview, Mar. 26, 1974.

Curriculum Content and Materials

Decisions as to what curriculum areas should be emphasized in a particular program depend on student needs. Usually a bilingual bicultural program will emphasize English instruction for language minority children more than second language instruction for English speaking children. In addition, more emphasis is often placed on the core subjects, such as reading, writing, math , and science, rather than on such subjects as music or art. The Rock Point program is designed so that Navajo students will be prepared to continue their education in public schools and so that they can continue to live and work within their communities in the reservation.[236] Consequently, instructional emphasis at the Rock Point bilingual bicultural school is on the "tool or core subjects" while art and music are incorporated into other subjects. For example, children are encouraged to illustrate the compositions they write during language arts class. Navajo music is incorporated in social studies.

---

[236] Wayne Holm, Director, Rock Point School, interview, Apr. 24, 1974, in Rock Point, Ariz.

Materials used in the four programs visited by Commission staff incorporate the contributions made by language minorities to this country and reflect experiences familiar to language minority children. Due to the scarcity of materials appropriate for language minority children, many programs have adapted materials which were either produced in the United States or imported from other countries. Programs have also developed new materials, particularly in the language of language minority children. The bilingual bicultural program in San Francisco attempted to use materials in Chinese imported from Taiwan and Hong Kong. The program soon found that they were not suitable for the Chinese child in the United States, especially because some of the vocabulary is not used by Chinese in the United States. Consequently, these imported materials were only used in a supplementary manner.[237] Chinese curriculum specialists for the Commodore Stockton program developed reading materials which covered topics such as Chinese festivals, seasons and calendar years, and important historical events. At the junior high school level, curriculum specialists translated English texts to Chinese. In addition, they prepared materials in Chinese designed to introduce new immigrants to

---

237. Roger Tom, Curriculum Specialist, Title VII program, Commodore Stockton School, San Francisco, Cal., interview, May 1, 1974.

aspects of American social and political institutions.

The Rock Point Navajo program uses some Navajo language materials developed in another reservation school, but many of its classroom materials have been developed and written by Rock Point's teachers and students. These include stories written by children in the higher grades, stories by teachers, transcripts of traditional stories as told by Navajo elders, poetry and stories by high school children, and reading readiness materials developed by the curriculum specialists.[238] The participation of both students and teachers in developing instructional materials appears to have created an atmosphere of cooperation in the school. The fact that older students write stories used as reading material for the younger students contributes to their feelings of pride and of self worth. Conversely, the success of the older children provides a role model for the young students.

Parent and Community Participation

It was apparent from visits to bilingual bicultural programs that a major purpose of the programs was to bridge the gap between the child's home and school experiences. The degree to which this is accomplished by each program seems to depend greatly on the extent to which parental and community participation is enlisted in design and implementation of the program.[239]

---

[238] Paul Rosier, Director Title VII program, Rock Point School, interview, April 26, 1974, in Rock Point, Ariz.

[239] According to one researcher, parent and community involvement is also necessary to ensure development of the minority language. Rolf Kjolseth, "Bilingual Education Programs in the United States: For Assimilation or Pluralism?," Bilingualism in the Southwest.

In all programs at least minimal efforts have been made to gain parental and community support for the programs and to provide mechanisms through which they can be involved. Such efforts include providing parents and community with information on bilingual bicultural education and its benefits and clarifying misconceptions they might have about the program. Meetings are held with parents and community members; letters, newsletters, and notices are sent home in the native language of the parents, and visits are made to the homes by home-school community liaison persons to maintain communication, both at the initiation of the program and throughout the school year. In Johnstown, the advent of the bilingual bicultural program was met with apprehension in the community. Before the program was implemented, the program director held a series of meetings with Mexican American and English speaking parents of elementary school children to explain bilingual bicultural education. Consequently, many parents who had been doubtful about the program enrolled their children in it. Now, constant communication between the program and the parents is maintained by the home-school community liaison person, who is from the community and is able to relate on a personal, informal level with parents. She encourages them to help their children with their school work, informs them of their children's progress, and reminds them of the importance of the children's regular attendance to school. The community liaison person continually reinforces the ties with families by helping resolve some of the family's social problems.[240]

Recognizing the traditionally unresponsive, unreceptive, alienating atmosphere which schools have projected to language minority communities, some bilingual bicultural programs have attempted to improve the school's relevance and sensitivity to those communities. In some cases this has been done by hiring qualified community people to work as teachers and paraprofessionals in the programs, and by encouraging parents and community members to freely visit and observe classrooms, to participate in social and cultural activities presented by the children in the program, and to volunteer to work in the program. In the Chinese program, for example, community people often provide workshops for program staff in Chinese kite-making, show puppetry, and Chinese music and dancing.

In Rock Point, parents are employed as teachers, program staff, and in the dormitories. Commission staff observed Navajo parents in the school telling stories and teaching children weaving, silversmithing, and leather crafts.

In addition, all bilingual bicultural programs have established community advisory boards whose responsibilities include, among others, serving as liaisons between the school program and parents and

---

240. Rose Bejarano, home-school community liaison person, Johnstown bilingual bicultural program, interview, Apr. 2, 1974. Similar home-school community liaison persons are also found in the Rock Point, San Francisco, and Philadelphia programs.

community members and contributing to the drafting of the program proposals for funding. The community advisory board for the Chinese bilingual bicultural program in San Francisco comprises Chinese and English speaking parents. It meets approximately once a month to discuss many aspects of the program and participates in other community activities, such as the Chinatown Education Committee and the Citizens' Task Force for Bilingual Education.[241] Periodically, teachers from the program attend board meetings, and at least one meeting a year is attended by large numbers of parents and community people. English speaking parents demonstrated their enthusiasm about the program by requesting and enrolling in Cantonese classes taught by the program's community liaison.[242]

Although parents and community members are participating in bilingual bicultural programs in the ways mentioned above, their participation can, in most cases, be characterized as limited, since they usually do not share correspondingly in the program's decisionmaking process. In only one of the programs visited were parents and community members beginning to make decisions and set policy for the program with some authority. The Rock Point school is administered by an all Navajo, elected school board. Board members are elected by parents and nonparents alike. The board functions as the bilingual bicultural program's advisory board and makes all final decisions pertaining to major program changes, including the hiring and firing of staff and the expenditure of program funds. It approves changes in the curriculum. In addition, a parent evaluation committee, which works with the board, observes the program at least twice every year and then reports to the board.

---

[241] The Citizens' Task Force for Bilingual Education was set up for the purpose of contributing to the development of a plan to meet Lau requirements.

[242] Interview with parents at Parent Advisory Board Meeting, Apr. 30, 1974, in San Francisco, Cal.

EVALUATION OF BILINGUAL BICULTURAL PROGRAMS

Although there were indications of success,[243] all four programs visited by Commission staff lacked precise and uniform data on their overall effectiveness. Systematic evaluations of bilingual bicultural education programs are necessary not only in ensuring that individual programs are effective, but also in providing some basis for identifying the most effective methods for teaching non-English speaking children. Currently, many programs lack even the most basic

---

[243] In addition to the progress of San Francisco bilingual students already mentioned (see p. 73), the evaluations of Philadelphia and Rock Point showed success in various ways. According to the evaluation of the bilingual program in Philadelphia, of the percentage of Spanish dominant pupils graduating in 1973 who had been in the bilingual program since the tenth grade, participating students were four times as likely to graduate as were Spanish dominant students in the same school but who were not participating. City-wide, Spanish dominant pupils in the program were nearly twice as likely to graduate as were nonparticipating Spanish dominant pupils. *Title VII Bilingual Project "Let's Be Amigos" Evaluation of the Fourth Year, 1972-73*, Office of Research and Planning, School District of Philadelphia, p. vii.

A 1973-74 evaluation report from the Rock Point bilingual program for Navajo students indicated that at the end of second grade, students taught to read in Navajo and English showed an average level of achievement on the Stanford Achievement Test of 2 months ahead of other students in the Chinle Agency of the Bureau of Indian Affairs schools. These students also passed a Navajo reading comprehension test with 98 percent accuracy, indicating that the Rock Point children can operate in English as well as those children in predominantly monolingual English programs, and they have learned to read and write in Navajo as well. "Final Evaluation, Rock Point Community School," Chinle, Ariz. Submitted by Max Luft Southwest Associates Inc., Albuquerque, N.M.,p. 45, 1973-74.

244

data on students served.

All bilingual bicultural education programs share a common concern for students' language development in two languages and their achievement in subject areas. Thus, at a minimum, data in those two areas must be evaluated. Most programs also have as one of the objectives the development of positive attitudes; in those cases, the attitudes must also be assessed.

In addition to indicating the long term success of the bilingual education program, evaluation information allows program staff to make informed judgments about matters concerning student readiness to receive content instruction in the second language, the type of additional teacher training needed, and whether adjustments are needed in the general instructional program. Moreover, such information is

---

244. A study of bilingual programs funded under the Bilingual Education Act of 1968 revealed that,

> Thirty-two of the thirty-four Title VII projects sampled had developed an evaluation design. All but one attempted to carry out the objectives of their evaluation plan. Several basic problems, however, delayed or hampered the evaluation process. For example, the necessity of translating some tests into Spanish, the development of new instruments appropriate for the target population, and the absence of clearly defined evaluation goals prevented projects from carrying out their objectives. In addition, only a few projects collected useful baseline data related to bilingual education. Though most projects attempted to assess the language dominance of pupils, the language competence in both English and Spanish was not measured.

U.S. Department of Health, Education, and Welfare, A Process Evaluation of the Bilingual Education Program, Title VII, Elementary and Secondary Education Act, vol. 1, prepared by Development Associates, Inc., under contract the U.S. Office of Education, Dec. 1973, p. 50.

important in determining the causes of difficulty experienced by certain individual students.

Although evaluation is a continuous process, involving all aspects of a program, it can be divided into three distinct phases for discussion purposes:[245] (1) preprogram assessment, or the preliminary evaluation of student needs that accompanies program planning; (2) process evaluation, or the assessment of the program implementation and interim student performance for the purpose of strengthening and adjusting the instructional program; and (3) outcome evaluation, or the assessment of the program's impact on student performance over a period of several years.

Preprogram Assessment

Before an appropriate bilingual bicultural education program can be designed, a careful assessment must be made of students' language skills, subject matter mastery and attitudes; the social factors which influence language development; and the available staff and material resources which can be utilized to implement the program. With such information, plans can be made concerning the content of native language arts courses, the quantity and type of formal ESL instruction, and the languages in which subjects should be taught. These basic data also influence the development of program goals and serve as a baseline for judging how the bilingual program has affected first and second language development and attitudes.

---

[245] For a detailed discussion of the different types of evaluation, see Daniel Stufflebeam, "Evaluation as Enlightenment for Decision Making" in Improving Educational Assessment and an Inventory of Measures of Affective Measures, Walcott H. Beatty, ed., 1969, pp. 41-73.

Since many bilingual bicultural programs begin with first grade, students who will be in the program are not yet in school. Thus, data must be projected for those students based on what is known of the entry level skills and interests of the previous year's first grade students. For students in higher grades, projections must be made of the level of their mastery in important skills and subject areas. Once the program has begun, a comprehensive assessment should be made of students enrolled in the program to provide actual baseline data.

Language Skills.--Language minority children in bilingual bicultural education programs may be monolingual speakers in their native language or may have varying degrees of skills in both languages. Thus, a careful assessment of language abilities is necessary before any decisions about placement are made. Language minority children who have some facility in both languages may easily be inappropriately placed within a bilingual bicultural program. Some facility in English does not mean a student is ready for subject matter instruction in English. On the other hand, the fact that language minority students speak their native language does not automatically mean that they should receive instruction in that language, since they may have greater facility in English.

Proficiency in any language proceeds sequentially from listening to speaking to reading to writing.[246] Facility within each of the four language skills must therefore be examined to assess proficiency accurately. Too often it is assumed that because children respond, they must understand. Moreover, it cannot be assumed that because children understand a language, they also speak it, or that because they read, they also are able to write. In testing language proficiency, a clear distinction must be made between the child's passive knowledge, which includes listening and reading, and active knowledge, which includes speaking and writing.[247]

Assessment of language skills will reveal instructional needs for students who have not developed listening and speaking ability in their second language. The program must provide formal training in those areas before introducing reading or writing. In contrast, students who have developed proficiency in listening and speaking and some proficiency in reading and writing may be ready to receive some content area instruction in the second language.

---

246. See pp. 51, 52, and 56 of this report.

247. John Macnamara, "The Bilingual's Linguistic Performance - A Psychological Overview," pp. 58-59. Macnamara notes that educated persons typically understand, speak, write, and read their native language. Thus, an educated speaker has two encoding skills (speaking and writing) for communicating, and two decoding skills (listening and reading) for understanding. Bilingual persons or persons learning a second language have varying degrees of skills in both languages.

The degree of sophistication in pronounciation, vocabulary, and grammar is important in determining how well a child understands and uses the second language.[248] A child's skill in hearing differences between sounds is a factor which influences his or her ability to pronounce words intelligibly. The range of vocabulary children have in the second language determines what concepts they will be able to understand. The degree of skill in manipulating and controlling vocabulary and grammar in the second language determines the degree to which it can be used for thinking and analyzing. In addition, the child's ability to use the language appropriately within its social and cultural contexts will affect the extent to which a child can communicate the intent of his or her message.[249] Such ability to

---

248. Pronunciation, vocabulary,and grammar are the aspects of language traditionally examined in second language learning. They test the second language learner's skill in manipulating the structural aspects of the second language.

249. Linguists distinguish between understanding the grammar of a second language and the ability to communicate in that language. Communicative ability includes not only use of the structure and meaning of sentences, but also the use of rules which govern the socially acceptable way of communicating, such as how to ask a question, interrupt a speaker, or participate in a discussion. Some suggest that rather than testing mastery of grammar and vocabulary, one should test a person's ability to function in a specified situation. For a full discussion of communicative competence see Dell Hymes, "Bilingual Education: Linguistic v. Sociolinguistic Bases," Monograph Series on Languages and Linguistics, 21st Annual Round Table (Washington, D.C.: Georgetown University Press, 1970), pp. 69-76. Bernard Spolsky, "Language Testing: The Problem of Validation," TESOL Quarterly, vol. 2 (1968), pp. 88-94. For a discussion on current research on second language teaching and assessment of communicative skills see Sandra J. Savignon, Communicative Competence: An Experiment on Foreign-Language Teaching, vol. 12, Language and the Teacher: A Series in Applied Linguistics (Philadelphia: The Center for Curriculum Development, Inc., 1972), pp. 8-18.

communicate in the appropriate manner will determine the degree to which the child is able to make his or her needs and ideas known and, therefore, to become a full participant in the classroom and the instructional program.[250]

A thorough assessment of a student's language skills requires an examination of several aspects of language. Assessing only pronounciation or vocabulary does not indicate the student's total second language ability. Vocabulary tests, for example, indicate knowledge of vocabulary, but may not reflect a student's ability to use vocabulary words in sentences.[251] Listening perception tests might indicate where children need assistance in learning to discriminate sounds necessary for learning to read.[252]

---

250. For a discussion on rules for appropriate social usage among different cultural groups see Susan Philips, "Acquisition of Rules for Appropriate Speech Usage," in Monograph Series on Languages and Linguistics, 21st Annual Round Table (Washington, D.C.: Georgetown University Press, 1970), pp. 77-96.

251. The vocabulary test is appealing because it is simple to design and to give, but used alone, it is not a good diagnostic tool. The basic inadequacy of vocabulary tests is that they tap only semantic information rather than the far more difficult task of using those words in sentences. Tests which require the child to choose one word or picture after being given a stimulus word or picture draw upon the child's receptive knowledge or understanding rather than his or her communicative skill. Thus, a child given the word "goose" will only have to know that it is a bird and will not have to demonstrate how to use the word in a sentence. Nor will the child have to know that the plural is "geese," an irregular form. Another critical inadequacy of vocabulary tests is that they focus on concrete nouns which are easier to depict in drawings for young children than are abstract nouns, verbs, adjectives, or adverbs. Interview with Barbara Horvath, Senior Research Specialist, Center for Applied Linguistics, Arlington, Va., Feb. 9, 1974.

252. Difficulty in pronunciation may indicate that the second language learner does not hear the difference between sounds. If the sounds do not exist in his or her native language or if they do not signify a difference in meaning, the learner is not trained to hear their differences. For example, because Spanish has only one sound for each vowel and the vowel "a" has the sound of the vowel in cot, "cat" would be pronounced as "cot." Children learning to read and spell in the second language by relating sounds with letters may experience difficulty if they do not discriminate between such sounds. For example, a Spanish speaking child might spell cat as cot if he or she does not hear the distinction in pronunciation. While ability to hear such distinctions is far more important, pronunciation may also be a handicap for the young reader who uses his or her native language pronunciation to "sound out" words.

However, pronunciation difficulty might conceal the fact that students are able to understand the language and use it grammatically.[253]

---

[253] A heavy nonnative accent often leads people to misjudge a second language learner's proficiency in the second language. Eugene Briere, "Phonological Testing Reconsidered", Language Learning, vol. 17, 1967 pp. 163-71.

Nevertheless, if a decision is made to assess pronunciation in the curriculum and testing, at least two things should be considered: (1) whether speech is intelligible and (2) what the community attitudes are toward accented speech. Stressing native-like pronunciation or the use of pronunciation drills to eradicate the "foreign accent" may be both an unwise use of time and a humiliating experience, particulary for older language minority students who understand English very well and know how to use it grammatically. To spend time teaching pronunciation to a Spanish speaker, for instance, who is otherwise intelligible but who does not make the usual "sh/ch" or "s/z" distinctions of a native English speaker may be unnecessary. It is highly unlikely that such word pairs as "shoes" and "chews" would be difficult to distinguish in a natural language setting since they usually come from different grammatical categories. Moreover, the Spanish-accented English may be looked upon as a source of pride or a means of group identification by some and attempts to change it may be unwelcome. Interview with Barbara Horvath, Center for Applied Linguistics, Feb. 9, 1974.

For a discussion on the ramifications concerning accentedness and language attitudes see P. D. Ortego, "Some Cultural Implications of a Mexican American Border Dialect of American English," Studies in Linguistics, vol. 21, 1969-70, pp. 77-84; G. C. Barker, "Social Functions of Language in a Mexican American Community" Acta Americana vol. 5, pp. 185-202. Frederick Williams, "Language, Attitudes, and Social Change," Language and Poverty ed. Frederick Williams (Chicago: Markham Publishing Co. 1970); and F. Williams, J. R. Whitehead and L. M. Miller, Attitudinal Correlates of Children's Speech Characteristics, U.S. Office of Education Report (Austin, Center for Communications Research: University of Texas, 1971); Bouchard-Ryan introduces an approach toward the quantification of accentedness and suggests further research concerning evaluative reactions of Mexican American bilinguals and Anglos for which such quantification may be needed. Ellen Bouchard-Ryan, "Subjective Reactions Toward Accented Speech," Language Attitudes: Current Trends and Prospects, ed. Roger W. Shuy and Ralph W. Fasold (Washington, D.C.: Georgetown University Press, 1973).

Grammar tests are useful to diagnose the student's need to learn a particular structure.[254] However, the ability to manipulate grammar in sentences does not constitute total second language ability, since it does not indicate, for example, how well the student describes an object, explains a problem, or constructs an argument to change another's behavior.[255]

In addition to assessing the second language proficiency, programs must also examine the native language skills of children. It cannot be assumed that children who live in a bilingual environment possess the same native language ability as children who speak the same native language but live in a monolingual environment. Although children who live in bilingual environments are fluent in their native language, they may be limited to using that language for certain situations.[256]

---

254. Saville and Troike note that sophisticated tests of language capacity should measure both recognition and production of sound, grammar, and vocabulary. For a brief discussion on the use of existing language tests to assess receptive and productive skills see Muriel Saville and Rudolph Troike, A Handbook of Bilingual Education, pp. 66-67.

Cohen notes the dearth of instruments which can elicit specific grammatical items from Spanish-English primary school aged bilinguals. In addition, he reviews some of the contentions regarding the approaches to measuring language proficiency in children. See Andrew Cohen, A Sociolinguistic Approach to Bilingual Education.

255. Tests for migrant children in Texas emphasize the use of oral language performance objectives; i.e. rating the child's language ability according to speech tasks he or she can perform. Such tests give major consideration to five aspects of language. Besides pronunciation, vocabulary and syntax, they include rhetoric; i.e. forms of discourse such as explaining, describing, narrating, and persuading and their literal, social, and artistic use; and register or style; i.e. the adjustments a speaker makes for variables such as formality of situation, type of audience, and topic. For a full discussion and example of tests and procedures see Texas Education Agency, Migrant and Preschool Programs, "Performance Objectives Pilot Project on Oral Language," Austin, Tex., 1974.

256. There are few individuals who have equal control of two languages and who can use both languages in any and all situations. For a discussion of languages used in different domains and contexts, see John A. Fishman, Robert L. Cooper, and Roxanna Ma, et al, Bilingualism in the Barrio (The Hague, Netherlands: Mouton and Co., 1971).

For example, a Spanish-English bilingual may speak to his or her parents in Spanish within the home, but may also use English with a sister or brother when discussing school. An assessment of the different situations or domains of language use will indicate to program staff what areas of a child's native language may need further development in vocabulary and structure.[257]

Finally, many children speak a nonstandard variety of their native language even though they understand the standard variety, which is the language of wider communication.[258] Program planners must know the variety of the language used by children.[259] They must also decide, in conjunction with language minority parents, how and when the standard variety of the native language is to be used in formal instruction.[260]

---

[257] The Redwood City Bilingual program evaluation included an assessment of the bilingual students' language skills and use by domain. Language skills tests in both languages were divided into subject areas reflecting situations in the home, neighborhood, school, and church. In addition all students answered questionnaires regarding the choice and use of their two languages in different situations. An estimation of the amount of time each of the two languages were used by students was made by systematically observing a random sample of students in formal and informal situations at school. For a full discussion concerning the methodology used to assess language use by domain see Andrew Cohen, A Sociolinguistic Approach.

[258] The varieties of any language differ systematically from one another in their pronunciation, vocabulary, or grammar. Regional varieties are usually mutually intelligible and accepted as grammatical by all speakers of the language. Midwestern English and Southern English are examples of regional varieties of standard American English. Puerto Rican Spanish, Mexican Spanish, and Venezuelan Spanish are examples of regional varieties of standard Spanish.

Aside from this, nonstandard varieties exist which are also systematically different from the standard language variety, but which are considered unacceptable or ungrammatical by speakers of the standard language and are often the native languages of lower socioeconomic groups. Chicano English, Appalachian English, and Black English are nonstandard varieties of standard American English. Recent ethnic pride movements have begun to change some attitudes toward these language varieties, so that they are used by middle class speakers in certain situations and in literature as well. For a thorough discussion of social varieties of language see Ralph Fasold and Walter Wolfram, The Study of Social Dialects in American English (Englewood Cliffs, N.J.: Prentice-Hall, 1974).

[259] This suggests a need for preliminary linguistic analysis of the variety of speech used by the children to be included in the bilingual program. As evaluator of the Redwood City Bilingual Program, Andrew Cohen analyzed the speech elicited through storytelling tasks in Spanish and English. See Andrew Cohen, A Sociolinguistic Approach.

Entry Level Skills, Subject Matter Mastery, and Interests.--In designing the bilingual bicultural education program, it is important to assess the types of skills possessed by first graders, the level of subject matter mastery of older children, and the interests of both groups. This will determine the type and level of instruction that can be provided and the language in which such instruction should take place.

Caution must be taken to ensure that the assessment of entry level skills and subject matter mastery include a consideration for the previous experiences of the children in both languages. For example, language minority children who have been in school a year or more may have received instruction primarily in English. Therefore, they should not be expected to perform on a written test in their native language, since they have no previous formal schooling in that language and hence no knowledge of the vocabulary and subject matter in that language. By contrast, while they may have previous school experiences in English, their limited English skills will probably hamper their performance on written examination in that language.

---

[260] The teaching of the standard language to students of a nonstandard variety requires an analysis of the differences between the nonstandard variety and the standard language, and assessment of the student's proficiency in the standard language. The preparation of dialect materials will be necessary if the students are to learn to read in their native language variety. However, if the differences between the native variety and the standard dialect are not great, teachers may be trained to use standard language materials. Techniques must then be developed to use the student's language variety as a base for instruction and to extend their vocabulary, grammar, and use of the language to include standard forms. Since both are legitimate forms, teachers must be able to teach students the appropriate use and function of the two language varieties without disparaging either one. For a discussion on teaching second dialects see Roger Shuy and Ralph Fasold, Teaching Black Children to Read (Washington, D.C.: Center for Applied Linguistics 1969).

The cultural and linguistic appropriateness of the tests and instruments used to evaluate students is critical in the assessment of subject matter skills. General aptitude, norm-referenced or standardized tests, and criterion-referenced tests[261] should all be used with considerable care to minimize cultural, socioeconomic, or linguistic biases.[262] Precautions should be taken to minimize the extent to which language skills influence student scores on subject matter. Content questions may be asked orally in the language each student understands best, allowing the student to respond orally in the language or language variety of his or her choice. While standardized tests may be given orally, results from their oral presentation will not be analagous to the results of administering those tests in writing; nevertheless, oral tests reveal more about the second language learner's mastery of content matter.

---

[261] Robert Glaser, "Instructional Technology and the Measurement of Learning Outcomes," American Psychologist, vol. 18 (1963) pp. 510-522. Glaser defines norm-referenced tests as tests in which the translated score tells where the person stands in comparison with some population of persons who have taken the test. Criterion-referenced tests are those tests which translate the test score into a statement about the degree of attainment of specified behavorial objectives by individuals with that score.

[262] For a discussion of biases in testing see pp. 64-66. It is important to note that linguistic bias is also present for speakers of a nonstandard variety of a language, since the speaker must interpret the meaning or read a text written in a dialect with different pronunciation and structure than his or her own. For more discussion on the linguistic bias of standardized tests see Joan Baratz, "A Bidialect Task for Determining Language Proficiency in Economically Disadvantaged Negro Children," Child Development, vol. 40 (1969).

It is highly unlikely that any test can be considered "culture-free"; however, much can be done to minimize socioeconomic and cultural biases of subject matter tests.[263] For example, subject matter tests can more easily measure such skills as vocabulary knowledge or skills in analogy by using words or situations common to all social groups. The following problem extracted from an aptitude test is clearly biased in favor of the higher socioeconomic group:

> A symphony is to a composer as a book is to what?
>
> paper   sculptor   author   musician   man

---

[263] Anne Anastasi notes that even when a systematic attempt has been made to include only content universally familiar to all cultures, such as in R. B. Cattell's Culture-Free Intelligence Test, most such tests tend to be "culture-common" rather than "culture-free" since at best, "performance on such items is free from cultural differences, but not from cultural influences." Anne Anastasi, "Some Implications of Cultural Factors for Test Construction," Testing Problems in Perspective, ed. Anne Anastasi (Washington, D.C.: American Council of Education, 1966), p. 455.

A similar problem likely to be more common to all social groups of children but which tests analogies equally well is this problem:

A baker goes with bread, like a carpenter goes with what?

a saw   a house   a spoon   a nail   a man[264]

Any subject matter test can be made to test children's knowledge of principles or skills by using culturally relevant items. For example, the reasoning skill tested above could be made more meaningful to a Navajo child in the following manner:

Silver is to a ring as wool is to what?

a sheep   a dog   a loom   a rug   a fence

In addition, informal questionnaires may be used to assess the extracurricular and nonacademic interests of the students to provide information about their previous experiences in the second language. Such areas of experience and interest or potential interest can be drawn upon in developing an appropriate curriculum.

Attitudes.--As previously discussed, the development of a positive self concept is a strong factor in successful learning. Although bilingual bicultural education programs are designed to enhance children's self concept, many do not conduct preprogram assessment of attitudes. Such an assessment will assist in determining to what extent children begin school and with a negative self concept and will make it possible to assess later the degree to which bilingual bicultural education contributes to their self confidence and enthusiasm for learning. The assessment might also suggest what types of activities would nurture a positive self concept and would assist teachers in providing individual children with special consideration and attention.

---

[264] This example was cited in Lee J. Cronbach, Essentials of Psychological Testing (New York, Evanston, London: Harper and Row, 1970), p. 305.

Beyond self concept measures, there also is a need to assess the attitudes of both language minority and majority group students and parents toward the prospective bilingual bicultural education program. In most cases, information about the amount of interest in or lack of support for a bilingual bicultural program may well be reflected in the relative number of children of either group who volunteer to participate in the program. Meetings to explain bilingual bicultural education may be necessary to develop a well-informed association of parents.

Negative attitudes of one language group toward the other also affect learning. Planning should include an examination of such attitudes within the school and the community. For example, negative attitudes may be exemplified in policies which disparage the use of the native language in the school or in other local institutions. Bilingual program planners need such assessment to identify areas in which changes should be made for successful program implementation. Moreover, such assessment can suggest activities such as workshops or cross-cultural events needed to improve attitudes of the language groups toward each other. Such information about community attitudes will also serve as one barometer for assessing at a later date the development of greater understanding and cooperation among the groups within the communities.[265]

Social Factors.--An assessment of external factors which influence language learning is as important as gathering information on language proficiency and attitudes. All too often social factors are overlooked in program planning. The number of speakers in each language group and the geographic concentration of the language groups should be assessed. Such demographic information may be obtained by making general projections based on census data or by conducting a local survey of the population.

Sociolinguistic information is useful in assisting program planners in setting realistic goals, since such factors affect the amount and type of practice and exposure that children receive in their native and second languages. Home conditions such as the educational level of parents, the language proficiencies and use of the first and second languages among family members, and general socioeconomic conditions vitally affect student achievement.[266] The sociolinguistic make-up of the home may be obtained through interviews with parents to serve as important information for curriculum planning and baseline evaluation data.[267]

Information about mobility patterns will be necessary for planning the curriculum. For example, frequent back and forth migration to non-English speaking countries will have bearing on the level of second language proficiency and the rate of second language learning of non-English speaking children. Moreover, schools located in communities which experience high mobility must plan for language instruction classes of varying abilities at all grade levels to accommodate the continuous influx of new students with different language proficiencies. Similar provisions will have to be made for instruction in content areas. For example, in the Philadelphia bilingual program, the fourth grade curriculum was designed as if fourth grade English speaking students had received 3 consecutive years of Spanish as a Second Language. In many instances, this was not the case because many students had joined the program at the fourth grade level.[268] However, the Philadelphia program did take into consideration the constant influx of native Spanish speaking Puerto Rican students by providing them with across grade level intensive English instruction.

---

[265] For a discussion on how to assess different parental attitudes toward bilingual bicultural education, see Lambert and Tucker, The Bilingual Education of Children, and Cohen, A Sociolinguistic Approach to Bilingual Education.

[266] A brief discussion on the importance of home conditions and a sample questionnaire is provided by Saville and Troike, A Handbook of Bilingual Education pp. 68-69.

[267] An extensive description of instruments, data collection procedures, and the importance of the results of home interviews conducted in Redwood City bilingual program evaluation over a period of 2 years is given in Cohen in A Sociolinguistic Approach.

Resources.--Once information concerning language proficiency, attitudes, entry level skills or subject level mastery, and the sociolinguistic setting has been obtained, program planners are ready to assess the usefulness of existing resources for the prospective bilingual bicultural education program. It may be possible, for example, to utilize language minority and bilingual staff already employed by the school district to implement the program after training them in bilingual bicultural teaching.

---

[268] A fourth grade Spanish as a Second Language class, visited by the Commission staff, was composed of children who had entered the program at different points in time. The children demonstrated a wide range of skills in Spanish, from being able to communicate simple ideas to not understanding a word. No provisions were made for teaching these children with different skill levels. Classroom observation, Potter Thomas School, Feb. 7, 1974.

Since there are relatively few language minority teachers in the schools, when vacancies occur in the teaching staff, language minority teachers can be recruited, making them part of the regular school staff rather than members of a special program staff. In addition, existing training funds can be used to prepare teachers and principals for the new program. Vehicles for parent participation may be utilized to inform both the minority and majority group communities about bilingual bicultural education and to enlist parental involvement.

Funding, materials, and personnel used in ESL programs can be redirected to the ESL components of the bilingual bicultural education program. In fact, since school districts have a responsibility to provide language minority children with an equal educational opportunity,[269] various existing Federal, State, and local funds currently being used for their education should be employed to support the bilingual bicultural education program.

Process Evaluation

Process evaluation includes both an interim assessment of student performance and an assessment of the extent to which the planned program is actually being implemented. If objectives are being accomplished, it is important to determine whether success was due to the planned program or due to variations from that program. If success was due to the planned program, then the design can be judged as effective. On the other hand, if the successful achievement of objectives is due to variations from the intended design, then the altered format of the program must be identified and documented.

---

[269] See appendix B.

Conversely, if process evaluation indicates that objectives are not being met and the planned program is being utilized, then modifications to the original plans should be developed. If the design was not being followed and objectives are not being met, program staff should attempt to switch back to the design to determine if that will improve the program's effectiveness. An accurate determination must be made of precisely what program design, either planned or unplanned, is being used, in order to determine accurately which programs are effective and which ones are ineffective.[270] Because many programs fail to evaluate in this manner, it is often impossible to identify or assess the effectiveness of different methods.

Student Progress.--Interim evaluations of student progress in language abilities, subject matter mastery, and attitudes are necessary to determine whether interim program objectives are being met. Information about whether they are or are not, coupled with an assessment of whether the planned program which was designed is being implemented, will suggest what changes, if any, might be necessary in the program.

Formal testing instruments should be utilized for the most part, though observations of students should supplement test information. In addition to indicating the progress of students as a group, these data also can be utilized for diagnosing individual student needs.

---

270. One of the major roles of formative evaluation (noted here as process evaluation) is to provide feedback about the effectiveness of the curriculum in meeting its goals so that midcourse revisions and corrections can be made. For a detailed discussion of formative evaluation see Michael Scriven, "The Methodology of Evaluation," in Perspectives of Curriculum Evaluation, ed. Ralph W. Tyler, Robert M. Gagne, and Michael Scriven (Chicago: Rand McNally, 1968), pp. 39-82.

Poor scores on achievement tests or lack of participation in a class conducted in English may be a reflection of the student's knowledge of the subject matter, or be due to insufficient ability in the second language. Depending on the source of difficulty, adjustments may be made by placing a child in native language courses, increasing the child's second language development, modifying the material used in the course, or providing teachers with additional training in presentation of subject matter.

Program Implementation.--Initially, all bilingual bicultural education programs formulate goals. For most, three major goals are identified: (1) to increase student achievement in the major content areas; (2) to increase proficiency in the native and second languages; and (3) to develop in students positive attitudes toward both the native and second language groups and positive self concepts. Some programs will have additional goals and each program will also develop more specific short-term objectives for reaching these goals.

Once such goals and objectives have been established, principles can be identified concerning what should be taught and how. Strategies and techniques will then be developed to carry out these principles in the basic elements of the instructional program. Process evaluation will determine the extent to which these principles have been implemented.

One major principle underlying bilingual bicultural education is that all areas of the curriculum should be relevant to the child's own experiences and culture. While the cultural appropriateness of the materials should be assessed during their developmental stages, the degree to which they are actually used in the classroom can be examined in the process evaluation of the instructional program. For example, assessment may determine whether these materials constitute a major source of content instruction or whether they are mainly supplemental in nature. The degree to which the materials are effective as used will be indicated through the results of student progress. Decisions to increase their usage or develop more materials may be made as a result.

The cultural appropriateness of classroom activities may be examined in the process evaluation. Such an evaluation will reveal whether or not the presentation of concepts in the subject areas draws upon the child's own culture and experiences. For example, a social studies unit which conveys the principle that living patterns in a community reflect family structures may call for teachers to use examples from the students' own knowledge of their families and neighborhoods. The extent to which the teachers do this must be assessed.

Since extracurricular activities such as field trips, assembly programs, craft exhibits, parties, and other activities relate directly or indirectly to classrooom activities and provide the informal learning experience that children need, their cultural appropriateness may also be examined. If the purpose of an assembly program is to demonstrate to students the availability of cultural events such as music, art, and drama in the city or community in which they live, a process evaluation should examine the extent to which such cultural programs make use of the talents or works of artists from the cultural groups represented by the children of the program.

Another basic principle of bilingual bicultural education is that, in order to promote development in each language skill, the program should include a variety of language experiences for children in both languages. Among other things, program planners may have included plans for a variety of reading activities and techniques for teachers to encourage verbalization. Wider reading improves language learning because exposure to varied vocabulary and complex language structures leads to their understanding and gradual acquisition by students.[271] The extent to which teachers create incentives and opportunities for students to read more widely should be evaluated. Reading contracts, visits to the library, provision of free reading periods or high interest books and periodicals in the two languages are among the things which can be examined.

Assessment of the extent to which students are encouraged to verbalize their ideas may be another way in which wide exposure to language experiences in both languages can be evaluated. For example, an interaction analysis[272] can be made of the frequency with which the teacher asks open-ended questions to allow students the opportunity to give fuller responses. Results which reveal that the majority of questions require one-word answers or yes-no responses are one indication that the teacher does not encourage verbalization.

The extent of exposure to a wide variety of language experiences may also be assessed by systematically examining the curricular and extracurricular activities used for promoting the students' exposure to and use of the two languages. For example, opportunities provided for adult speakers of both languages to participate in discussions or to work with students may be examined. In some programs, involvement of parents of both language groups as aides or resource persons might be identified

---

271. Carol Chomsky, "Stages in Language Development and Reading Exposure," *Harvard Educational Review*, Feb. 1972, pp. 1-33.

272. Interaction analysis is a technique for classification and analysis of the instructional language of the classroom. For a full discussion see *Interaction Analysis: Theory Research and Application*, ed. Edmund J. Amidon and John B. Hough (Reading, Mass: Addison Wesley, 1967).

as a means for increasing exposure and should be assessed to determine the actual extent of such involvement. In addition, assessment may be made of the use of mechanisms for allowing students of both language groups to use both languages in common activities, such as science fairs, math projects, plays, and a variety of other such activities.

Another of the fundamental principles underlying most bilingual bicultural education programs is that when subject matter is presented in the second language it should not be so beyond the student's level of language proficiency that he or she cannot understand instruction. Before instruction begins, program materials will be selected which appear to be appropriate to the proficiency levels of students in different grades. The process evaluation should examine the extent to which such materials are utilized.

Programs may identify different principles concerning the best teaching methodologies to use in each of the two languages depending on the languages, the materials available to them, and the skills of their teachers. For example, research is still inconclusive about the best methods of teaching reading,[273] and programs vary in the methods they choose. Some programs use one method for teaching reading in the native language and another for teaching reading in English.[274] Other programs use the same reading method for both languages.[275] Some may decide to use a combination of approaches depending on the materials available. The process evaluation must examine the extent to which instruction follows the method or methods originally selected.

---

[273] For a summary of research studies examining the effect of different methods of reading see Molly R. Wysocki and Thomas R. Sipla, "Classroom Application of Reading Research , Interpreting Language Arts Research for the Teacher, ed. Harold G. Shane, James Walden, Ronald Green (Washington, D.C.:Association for Supervision and Curriculum Development, National Education Association, 1971).

Outcome Evaluation

Outcome evaluation is based on the process evaluation data collected over an extended period of time. The purpose of outcome evaluation is to determine the extent to which the bilingual bicultural education program increased the educational progress of students in comparison with monolingual English instruction with or without ESL.[276] Besides educational achievement, the outcome evaluation should include an assessment of the accomplishment of other goals, such as those of native language development, promotion of positive attitudes, and other, individual program goals. For purposes of such an evaluation, students in the program should be compared with a comparable group of students who are receiving

---

274. The San Francisco Chinese bilingual program has teachers trained to teach English through the "phonic" method while the methodology for teaching Chinese reading requires the oral presentation and memorization of Chinese characters by students since Chinese writing has no correlation between the characters and the sound.

275. Many Spanish-English bilingual programs utilize the phonic method of teaching reading in both languages because of the wide availability of phonic reading materials in English and the ease with which the highly regular sound system of Spanish can be taught in the same manner.

276. Scriven notes that the role of summative evaluation is "to enable administrators to decide whether the entire finished curriculum, refined by the use of the evaluation process. . . represents a sufficiently significant advance on the available alternatives to justify the expenses of adoption by a school system." Scriven, "Evaluation," pp. 41-42.

a monolingual education, with or without ESL.[277] Using a variety of instruments, data on the performance of all groups should be gathered over a period of several years in at least the areas of language abilities in both languages, academic achievement, and attitudes.[278] Too often programs limit their evaluations to a year-to-year assessment of student achievement on standardized tests in English. Thus, they fail to assess the full impact of the program in all areas on the students' development over a period of time.

Academic achievement should be measured both by norm-referenced tests and by criterion-referenced type tests. The major utility of norm-referenced achievement tests is that their results can be compared with national norms. Thus, program staff will be aware of how students in the bilingual bicultural program compare with students nationwide taking the same test. Moreover, this information is vital in measuring student's ability to compete for entrance to 4-year colleges and to graduate schools. Scores from such norm-referenced tests are often heavily relied upon in selecting students for admission into college or to postsecondary education. However, care must be taken to ensure that such tests are not used as the chief measures of student progress ,since their limitations in adequately assessing language minorities are well known.

---

[277] Such comparisons may be done with alternative programs in the same school or another school, but must be done with groups of children comparable in number and background. Results for English speakers in bilingual programs may be compared to results for a comparable group of children in foreign language programs. See Cohen, A Sociolinguistic Approach for a discussion on the methods of data collection and comparison of bilingual and monolingual (with or without ESL) control groups.

[278] For a complete description and model of an outcome evaluation for a bilingual bicultural education program in the United States, see Cohen, A Sociolinguistic Approach to Bilingual Education.

Because norm-referenced tests include a broad sampling of knowledge in a given subject area, they can sometimes be poor indicators of students' mastery of the subject matter. Differences between programs can best be evaluated by using criterion-referenced tests. Programs should be evaluated by selecting test items which reflect their individual program objectives.

Areas Needing Further Research and Development

Evaluation and program implementation are often hampered and limited by a scarcity of adequate assessment and by gaps in research. Thus, appropriate instruments must be developed to provide the most accurate evaluation of the progress of children in bilingual bicultural programs. To ensure the greatest possible precision in implementing programs, research is needed in such areas as first and second language acquisition, the relationship between language and thought, and the learning styles of children from different cultural backgrounds.[279]

Evaluation Instruments.--Much of the criticism of bilingual bicultural education is the result of lack of data on student performance or the presence of data from inadequate instruments, such as those designed for monolingual children. Judgments concerning the success of bilingual bicultural education often have been based solely on the children's progress in English. In such cases, no consideration has been given the differences in the schedules for English language development in

---

279. See list of "Research Priorities in Bilingual Education", prepared by the Center for Applied Linguistics, Arlington, Va.

bilingual bicultural programs,[280] ESL programs, and monolingual English schools with no ESL. For example, children in bilingual bicultural programs initially spend more time in their native language , since they receive content area instruction in their native language. Although oral English language skills are developed immediately, English reading skills are developed later than in a monolingual program. In a bilingual bicultural program, children must first understand and speak English before learning to read it. Reading is first developed in the native language before being introduced in English. Thus, it is inappropriate to make any comparisons about the relative effect of such programs on English skills without an awareness of these inherent difference in the programs.

For the same reason, content area achievement cannot be measured through English in the early grades. Research is needed to determine

---

280. The Department of Health, Education,and Welfare (DHEW), Office of Education (OE), is implementing an impact study comparing the progress in English of Spanish origin children in Title VII federally-funded programs. There will be an attempt also to measure native language achievement and one content area. The data collection and processing phase is to be completed between September 1, 1975,and May 31, 1976. Comparison schools will be matched as closely as possible and many variables will be taken into consideration. However, comparison schools will not necessarily only include children who have had no special English assistance. In addition, there is an interest in making generalizations about the appropriateness of a program for each ethnic group. Telephone interview with Edward B. Glassman, Education Program Specialist, Office of Budgeting, Planning, and Evaluation, OE, DHEW, Feb. 26, 1975.

Since comparison schools will not specifically exclude children who have received English assistance through ESL or bilingual programs, results will not clearly reflect how children in Title VII programs progress as compared with children in monolingual schools not receiving special English assistance. Furthermore, the differences in scheduled language development rates of children in bilingual, ESL, and monolingual programs are not being systematically considered. Differences in amounts of societal exposure to English, which also affects English learning rates, are not being considered either. Such societal exposure is important in making generalizations about the appropriateness of a program for groups which experience similar amounts of exposure to English.

at what point children in bilingual bicultural programs can be expected to take State- or nationally-normed standardized tests, which assume knowledge of English. Appropriate local instruments, which measure content area achievement in the native language or English with a minimum of cultural or socioeconomic bias, must be developed for use until students are ready for normed tests. Comprehensive native and English language assessment instruments are desperately needed to measure bilingual skills development. Research is also needed to develop instruments to assess children's attitudes and self concept and the impact of bilingual bicultural education on the attitudes of different ethnic groups vis-a-vis each other.

Other Areas.--Little is known about language development among language minority children who live in a bilingual environment.[281] Do 6-year old bilingual children possess two complete language systems and sets of vocabulary words with the same degree of sophistication in each that monolingual children possess in one? Or are they limited in both? If they are limited, how long will it take them to develop the same degree of sophistication in both and what conditions and teaching methods best develop equal ability in both? Do language minority children who are monolingual in their native language have the same degree of language sophistication that monolingual English speaking children have who benefit from more exposure to English through television and radio?

---

281. Some research has been done, but results are inconclusive and not easily generalizable because of uncontrolled variables and because of the multitude of factors which influence language development, such as attitudes, exposure, and needs within and outside the family. One extensive study is Weiner F. Leopold, Speech Development of a Bilingual Child, 4 vols (Evanston, Ill.: Northwestern University Press, 1939). The speech of bilingual individuals in New York City is examined in Fishman, Cooper, Ma,et al, Bilingualism in the Barrio.

Minority language children might have a different set of vocabulary items and might acquire specific grammar structures at different stages. The vocabulary of these language minority children in their native language may be weaker than the vocabulary of native English speakers of the same age level, for example, because they have not had wide societal exposure to their native language. Thus, it may not be appropriate to translate English reading texts for use as native language reading materials. Though linguistic analyses should be made for each individual bilingual program, extensive research will enable bilingual curriculum developers in research centers to make generalizations and, thus, to prepare materials and curricular program designs which can be useful to many programs. This would relieve individual programs from having to develop all of their own materials.

Less is known of second language acquisition than of native language acquisition.[282] What types of structures does a child learn first? How far does passive knowledge or understanding ability lag behind speaking? This is particularly important in deciding how well ingrained English has to be before language minority children can be expected to learn a subject such as social studies in English. If they speak English inadequately, to what extent are they handicapped by having to revert to their native language in assimilating information? And to what extent can they learn to use English as they are learning the subject matter in English?

---

282. Extensive research exists on native language development of children. For example, Child Language, A Book of Readings, ed., Aaron Bar-Adon and Weiner F. Leopold (Englewood Cliffs, N.J.: Prentice Hall, 1971); Carol Chomsky, The Acquisition of Syntax in Children From 5 to 10; Philip S. Dale, Language Development, Structure and Function (Hinsdale, Ill.: The Dryden Press, 1972).

Information about second language acquisition is extremely important in developing teaching methods and techniques. Children at each cognitive and emotional stage of development require different teaching methods; but, because little research has been done on second language acquisition in children, bilingual bicultural programs have had to improvise by adapting language teaching methodology originally developed for adults.[283]

Research in second language teaching methodology will help bilingual curriculum developers devise teaching strategies which most effectively stimulate children to use the second language. Because children naturally tend to use the language they control best, research in this area will also yield information on the types of stimuli needed for children to use their weaker language in order to develop it. Research in how to foster appropriate attitudes towards language learning is also necessary, since attitudes play an important role in language development.

Research in methodology for teaching subject areas is needed in conjunction with the areas previously mentioned. For example, children in bilingual bicultural programs probably need more oral presentation of subject matter with extensive visual reinforcement than children in monolingual schools in order to reinforce concepts and language development.

Appropriate teaching methodology also must be based on research concerning the learning styles of different cultural groups. Some

---

283. The audio-lingual method and variations of it, which is the most widely used, was originally developed for teaching adult foreign nationals English language skills. "Most of the methods and materials we are now using in our elementary and secondary classrooms represent relatively minor adaptations from those designed initially in adults." Saville-Troike, "TESOL Today: The Need for New Directions," p. 2.

differences in learning style appear to be associated with differences in cultural background.[284] However, more research is needed as to what constitutes the different learning styles of different ethnic groups.[285] For example, it has been stated, though not conclusively proven, that certain Native American children learn best when they are allowed to observe before they are required to perform.[286] Language minority children who have had some schooling in non-American schools are probably used to memorization and rote teaching techniques.[287] However, teaching methods in the United States stress learning by discovery or experience.[288]

Not enough is known about whether children relate their second language directly to thought, or whether they go to their native language first and

---

284. For a discussion of the influence of culture and socioeconomic status on the learning styles of children, see Frank Angle, "Social Class or Culture," The Language Education of Minority Children, ed. Bernard Spolsky (Rowley, Mass.: Newbury House, 1972).

285. Some research has been done on the subject, though there is no conclusive research for any language minority group. For one such study on Mexican American children see Manuel Ramirez, III, "Current Educational Research," The Basis for a New Philosophy for Educating Mexican Americans, Univ. of Calif., Multi-Lingual Assessment Project, 1972.

286. Sirarpi Ohannessian, "The Language Problems of American Indian Children," The Language Education of Minority Children (Rowley, Mass.: Newbury House, 1972).

287. Many Latin American and European schools use more traditional approaches to learning, which include presentation of subject matter through lectures, memorization, and rote learning.

28 Teaching methods in the United States are for the most part based on the educational philosophy of John Dewey. See Experience in Education (New York: Colber Macmillan Publishers, 1938, reprinted 1973), and "My Pedagogic Creed", The World of the Child, intro. by Toby Talbot (New York: Anchor Books, 1968), pp. 387-397.

then to thought. It is likely that a combination of both processes occurs.[289] This information is needed to develop the appropriate second language teaching methodology and the structure of the entire program. Decisions must be made about whether to keep the two languages separate or to encourage using both languages within the same situation. In addition, this information will help curriculum planners decide if certain subjects are better taught in a specific language. For example, there is divided opinion as to whether computational skills should be taught in the first language or in English (provided the student knows some English). Because math is relatively free of language and because some researchers believe that children generally continue to compute in the language in which they learned computation, they believe that computational skills should be taught in English.[290] On the other hand, math should be taught in the native language until children develop competency in English, since it is a cognitive subject.

---

289. Theoretically, there are two types of bilingual ability. Coordinate bilingualism implies that the individual has two separate language systems which have been learned separately. The bilingual does not relate the two. In compound bilingualism, the bilingual relates the two language systems. Saville and Troike, Handbook of Bilingual Education, p. 17. The distinctions of different bilingual types was first made by Uriel Weinreich, Languages in Contact, Publications of the Linguistic Circle, No. 1, New York.

290. "Computational skills should be developed in English...Students continue to perform basic mathematical processes in the language in which they first learned them, and more advanced courses in mathematics will probably require the use of English," Saville and Troike, Handbook of Bilingual Education, p. 51.

Research is needed to clarify these differences of opinion.

Though there is considerable research in the area of language and thought, there is a lack of research and controlled studies in the area of bilingualism and intelligence. Research is needed to examine the effects of bilingualism on cognition. One recent study, for example, suggests that bilinguals have a facility for conceptualizing "environmental events in terms of their general properties without reliance on their linguistic symbols."[291] If research is able to prove this definitively, bilingual curricula could be designed to maximize this ability.

---

[291] Peal and Lambert, "The Relation of Bilingualism to Intelligence," p. 14.

CONCLUSION

The Commission's basic conclusion is that bilingual bicultural education is the program of instruction which currently offers the best vehicle for large numbers of language minority students who experience language difficulty in our schools.

Many language minority children, including Mexican Americans, Puerto Ricans, Native Americans, and Asian Americans, face two obstacles in attaining an education. Not only may they be the target of discrimination because they belong to identifiable minority groups, they also may not understand English well enough to keep up with their English speaking counterparts.

Under Lau v. Nichols, the Supreme Court has held that school districts receiving Federal funds cannot discriminate against children of limited or non-English speaking ability by denying them the language training they need for meaningful participation in the educational process. In this report, the Commission has examined whether the bilingual bicultural education approach is an effective means of providing that opportunity. Primary emphasis was placed on the educational principles which support the use of the native language in educating children, in nurturing positive self concept, and in developing proficiency in English. However, consideration was also given the effect on successful learning of the attitudes toward language minority groups in this country.

Without a doubt, it is easier for children to learn in a language they already understand. Native language instruction capitalizes on children's previous knowledge and maximizes the possibility that children will develop healthy self concepts and positive attitudes toward learning. Cognitive, reading, and expression skills can be developed naturally, without the handicap of having to learn a new language at the same time. In addition, the second language--in this case, English--can more easily be developed if the child is also allowed to fully develop his or her native language.

Although it is easier to learn in the native language, some children can learn through a second language. Those children who have been successful, however, have been of middle class background and/or members of the majority group. They were instructed through a second language by choice. Language minority children in this country have had no choice in most instances, but have had to attend schools which ignore their language and culture. School is another reminder of the discrimination and limited opportunities facing these children as members of minority groups. Evidence gathered by the Commission and others documents that language minority students badly need an alternative to education in the monolingual English school system which has been found to be among the causes of low achievement, overageness, and grade retention. The longer they remain in school, the further they fall behind native English speaking students in grade. They are also likely to be forced out or to drop out of school early.

Perhaps more important than the educational benefits already noted is the effect bilingual bicultural education can have on the learning environment for language minority children in this country. It provides a means for increasing the extent to which schools reflect the many facets of American society. This is done in several ways. Teachers are included who bring the native language and culture to the educational program. In addition, the native culture is integrated into the curriculum, so that the historical, literary, and political contributions of members of language minority groups to this country are included in educational course matter. Finally, bilingual bicultural programs encourage the involvement of language minority parents and community persons in school activities. The result is not only increased pride and confidence on the part of language minority children, but also better understanding among children of different racial/ethnic groups.

This endorsement of the bilingual bicultural education approach does not preclude the use, in those instances where there is a small concentration of language minority children, of the English as a Second Language (ESL) approach. The decision to utilize this approach must be made with the greatest care, however. It must be weighed against the subject matter retardation which will occur until English skills are developed, to ensure that children will not fall so far behind that they cannot recover. Moreover, language minority parents' preferences for this approach should be of foremost importance.

Bilingual bicultural education may substantially increase the equal educational opportunity of language minority students, but only if it is implemented self-consciously. Without careful planning and evaluation, any bilingual bicultural program would be limited in its effectiveness and replicability. Before either bilingual bicultural education or ESL programs are implemented, therefore, a careful assessment should be made of the English proficiency level of language minority children, their attitudes and those of their parents toward learning through either the native or second languages, previous records of student achievement, and external factors, such as geographic isolation and percent of language minorities within a given community.

It is important also to assess what staff and material resources exist and to redirect per pupil operating funds which are being utilized ineffectively for the education of language minority students. Since language minority staff and teachers play such an important role in changing the educational environment, they should be employed not only out of special program funds, but should also be recruited to fill vacancies on the permanent school staff.

Finally, evaluation should be planned from the program's inception so that appropriate adjustments can be made. Both criterion referenced and norm referenced measures should be used to evaluate student progress, and examinations of materials, methodology, and techniques should be made periodically.

Steps must be taken immediately to overcome the barriers to education facing language minority students. At stake are the futures of a large number of American children. Many language minority children are handicapped by poverty and discrimination before they even enter school, and although language is only one obstacle which they face in attempting to complete an education, it is a major one. Bilingual bicultural education can remove much of the burden from those children and thus put completion of an education within their grasp.

Although bilingual bicultural education has been criticized for nurturing ethnic separateness in this country, it can provide one of the best means for diminishing such separation. Without full economic and social opportunity, language minority groups will almost certainly remain isolated, outside the American mainstream. If bilingual bicultural education fulfills its promise to provide educational skills, knowledge, and English language proficiency, it can be a major step in helping to remove the barriers which currently exclude language minority groups from that mainstream. Moreover, it can provide opportunities for all children to learn about and experience the benefits of a multicultural society.

APPENDIX A

THE CONSTITUTIONAL RIGHT OF NON-ENGLISH SPEAKING CHILDREN TO EQUAL EDUCATIONAL OPPORTUNITY

A public school system discriminates against non-English speaking children in violation of their right to equal protection of the laws under the 14th amendment of the U.S. Constitution when it fails to educate them in a language they can understand.

Compelled to attend school along with their English speaking peers, non-English speaking[1] students are then effectively excluded from the educational processes by educational methods which presuppose an ability to understand and speak English.[2] School officials who disregard the English language difficulties of non-English speaking students apparently assume that they will learn the subject matter being taught, and thereby receive the education they will need to compete effectively in modern American society, even though they have not mastered the language in which they are being instructed.[3] Study after study, however, has revealed that American schools have failed to educate students from language minority groups, particularly persons of Spanish-speaking backgrounds, Native Americans, and Asian Americans.[4] Subjected to discrimination because of their minority group origins, these language minority students suffer further discrimination from "monolingual" schools (schools which conduct their instructional programs exclusively in English) which ignore, and all too frequently reflect society's prejudices against, their native languages, cultures, and heritages.

---

[1] The term non-English speaking as used herein includes those students from language minority groups who possess some command of the English language but not enough so as to be fully able to participate in the educational process.

[2] This obvious exclusion of non-English speaking students from "English only" school curriculum was recognized by the Supreme Court in Lau v. Nichols, 414 U.S. 563, 566 (1974): "Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful." In Lau, the Court affirmed the Department of Health, Education, and Welfare's interpretation of Title VI of the Civil Rights Act (42 U.S.C. 2000d) that school systems have an affirmative obligation to provide students who are unable to speak and understand English a meaningful opportunity to participate in their school's instructional program.

This appendix takes the position that the right to the equal protection of the law guaranteed by the Constitution is violated by such a monolingual educational approach, and that school officials are required to overcome this discrimination against language minority students by initiating programs designed to provide these children with opportunities to obtain an education equal to those afforded English speaking children.

---

3. Immigrant groups coming to this country in the 19th and early 20th century did not need advanced English language skills to get jobs and survive in the less complex economic order of the time. Whatever language problems such groups had, they were not as critical to economic survival as such language skills are now. See pp. 9-10, 14.

4. See pp. 14-15.

The Right to Equal Protection of the Laws

The equal protection guarantee [5] does not prohibit States from making reasonable classifications for the attainment of legitimate State objectives. All governmental bodies must make decisions, often expressed as classifications, which will treat some persons differently from others. Courts refrain as much as possible from interfering with the discrimination which inevitably results from these policy choices. Out of deference to these necessary State legislative and administrative judgments, the courts place a heavy burden on individuals alleging that the discrimination caused by these governmental actions is unconstitutional. In such "traditional equal protection" cases, the litigant must prove that no set of facts can conceivably justify the purpose of the governmental action in question, that such purpose itself is illegitimate, or that the chosen classification bears no reasonable relation to the achievement of that purpose. [6]

The judiciary does not always allow States such broad discretion, however. Where the governmental action classifies persons on a "suspect" basis, such as race and national origin,[7] the courts have discarded the traditional equal protection analysis described above and have placed on the State the burden of justifying the action in question. The courts have viewed with similar suspicion State activity which abridges individuals' "fundamental interests," such as the right to privacy,[8] the right to interstate travel,[9] and the right to vote.[10]

---

[5] The equal protection argument advanced herein applies to the Federal Government as well as to the States; the fifth amendment prohibits the Federal Government, as the 14th amendment prohibits the States, from depriving any person of the equal protection of the laws. Bolling v. Sharpe, 347 U.S. 497 (1954); U.S. v. Kras, 409 U.S. 434 (1973). For a comprehensive analysis of the equal protection guarantee, *see* *Developments in the Law - Equal Protection*, 2 Harv. L. Rev. 1065 (1969) [hereafter cited as *Developments - Equal Protection*].

[6] McGowan v. Maryland, 366 U.S. 420 (1961); Morey v. Doud, 354 U.S. 457. *See Developments - Equal Protection*, n. 5 at 1076-1087.

[7] *See*, *e.g.*, MacLaughlin v. Florida, 379 U.S. 184 (1964); Korematsu v. U.S. 323 U.S. 214 (1944). Alienage has also been held to be a suspect classification. *See*, *e.g.*, Graham v. Richardson, 403 U.S. 365 (1971) Four Supreme Court justices consider classifications based on sex to be suspect. Frontiero v. Richardson, 411 U.S. 677 (1973).

A "two tier" system has thus been generated.[11] Where neither a suspect class nor a fundamental interest is involved, the questioned State action will be sustained if it has any conceivable rational basis. Whether either a suspect classification or fundamental interest is involved, the courts will carefully scrutinize the challenged State action and require the State to prove that the questioned activity is supported by a "compelling governmental interest."[12] In these cases, the "restrained review" of traditonal equal protection analysis is replaced by a more rigorous "active review."[13] It is submitted that this higher level of judicial review must be applied in constitutional challenges to schools with language minority students which conduct their educational programs exclusively in English.

---

[8] Griswold v. Connecticut, 381 U.S. 479 (1969); Roe v. Wade, 410 U.S. 113 (1973).

[9] U.S. v. Guest, 383 U.S. 745 (1966); Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974).

[10] Wesberry v. Sanders, 376 U.S. 1, 17 (1964); Dunn v. Blumstein, 405 U.S. 330 (1972).

[11] Developments - Equal Protection, n. 5. of this appendix.

[12] See, e.g., Shapiro v. Thompson, 394 U.S. 618 (1969). See generally Developments - Equal Protection, n. 5 at 1087 .

[13] A third standard of review--in between the "permissive" low standard and the "strict" higher standard--has been emerging in recent years. See infra at 153-153.

The Suspect Class

The decision to use English as the exclusive language of instruction necessarily classifies students on their ability to speak English, and then works to the disadvantage of non-English speaking children. Even though they may sit in integrated classrooms and use the same facilities as their English speaking peers, students not proficient in English obviously lack the educational opportunities afforded their English speaking classmates. [14]

Typically, monolingual schools exclude not only such children's native language, but their cultural heritage as well. Instead of building on the language and cultural backgrounds of these children, these schools at best ignore and at worst suppress these difference. [15] If they are Asian Americans, Native Americans, or persons of Spanish speaking background, the children are further burdened by society's prejudices. [16] School for these children is not a neutral institution, much less the supportive institution it often is for white English-speaking students. It is a hostile environment of incomprehensible English, unfamiliar culture, and, all too frequently, destructive prejudice. The schools thereby create the circumstances which make the inability to speak English a crippling deficiency and which stigmatize and demoralize language minority students.

---

[14] The Supreme Court's observation in Lau, quoted n. 2 of this appendix is supported by earlier cases finding that education consists of more than just equal access to physical facilities. Communication is critical. Thus, in Sweatt v. Painter, 339 U.S. 629, 634 (1950), the Court, in ruling unconstitutional segregation in Texas' law schools, stated: "Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views. . ." See also McLaurin v. Oklahoma State Regents, 339 U.S. 637, 641 (1950).

[15] Although four States have passed laws requiring some form of bilingual instruction and 12 have laws encouraging such instruction, at least 12 other States require all instruction to be conducted in English. Five States enforce their provisions with criminal penalties. See Note, The Constitutional Right of Bilingual Children to an Equal Educational Opportunity, 47 So. Cal. L. Rev. 943, 955-956 (1973). A similar hostility to native languages is mirrored in the estimated one-third of the school districts in the Southwest which have informal policies which discourage the use of Spanish in the school, both in the classroom and on school grounds. U.S. Commission on Civil Rights, The Excluded Student (1972) 14-15 (see p. 34 n. 108).

[16] See Commission studies listed on p. 17 n. 52.

The use of a monolingual educational policy, of course, is not the same as closing the schoolhouse door to these children. Language minority students are allowed to participate in their schools' programs and some do adapt to their schools' English language requirements, cultural assumptions, and prejudices.

A price must be paid, however. Without teachers, administrators, instruction and instructional materials to which they can relate,[17] non-English speaking students must struggle to maintain "the positive self concept" educators have found critical to successful learning.[18] Intellectual development, oral and written expression, and access to content areas is frustrated by their unfamiliarity with the English language.[19] In such circumstances, many language minority students, grappling with language and cultural problems, fall so far behind in their education that they cannot recover. And yet these students are judged on English-speaking standards and are expected to compete on equal terms with English speaking students.

---

[17] *See* pp. 35-36.

[18] *See* pp. 30-40.

[19] *See* pp. 41-55.

Due to these barriers to education caused by monolingual educational programs, children of various races and national origins who have never learned English do not have access to the educational opportunities afforded language majority students. The constitutional issue presented by these facts is whether this identifiable class of students of limited English speaking ability is a "suspect" class, and thereby entitled to special judicial protection from the harm caused by monolingual schools.

In San Antonio School District v. Rodriguez, the Supreme Court stated that to be "suspect" a class must be:

> . . .saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process.[20]

Students who are excluded from public educational programs for lack of English fluency possess all three of these "traditional indicia of suspectness."[21] Thus, just as poverty deprives indigents of access to key institutions which maintain monetary entry fees,[22] language "disabilities" work to the detriment of the non-English speaking in systems which predicate admission on the knowledge of the English language. Our society has rarely

---

20. 411 U.S. 1, 28 (1973).

21. Id.

22. See Griffin v. Illinois, 351 U.S. 12 (1956) Harper v. Virginia Bd. of Elections, 383 U.S. 669 (1966); Bullock v. Carter, 405 U.S. 134 (1972).

treated benignly persons whose native language was not English. The American legal landscape is dotted with State-imposed English language requirements for voting,[23] legal proceedings, holding public office, and conducting business,[24] as well as for education.[25] In the past, these English language prerequisites were purposefully utilized to bar language minority groups from the benefits of the American social order.[26] It is this background of a "history of purposeful unequal treatment" of persons whose native language is not English against which present day demands for English language proficiency must be viewed. Finally, large numbers of persons of limited English speaking ability belong to racial and national origin minority groups which historically have been underrepresented in the political process. Spanish speaking persons, in particular (the largest non-English speaking group in the U.S.)[27] have had voting difficulties[28] and lack representatives in governmental positions in proportion to their composition of the voting population.[29]

---

[23] See U.S. Commission on Civil Rights, The Voting Rights Act: Ten Years After 117-121 (January 1975).

[24] See Liebowitz, English Literacy: Sanction for Discrimination, 45 Notre Dame 7 (1969) (hereinafter cited as Liebowitz, English Literacy).

[25] See n. 14 of this appendix; See also Liebowitz, The Imposition of English as the Language of Instruction in American Schools, 1970 Revista de Derecho Puertorriqueño 175 (1970).

[26] See Liebowitz, English Literacy, n. 23 of this appendix; See also p. 5-10.

[27] See pp. 10-12.

[28] See e.g., Torres v. Sachs, 381 F. Supp. 309 (S.D.N.Y. 1974). Puerto Rican Organization for Political Action (PROPA) v. Kusper 490 F.2d. 575 (7th Cir. 1973); Castro v. California 2 Cal. 3d 223 (1970); Graves v. Barnes 343 F. Supp. 704 (W.D. Tex. 1972); White v. Regester, 412 U.S. 755 (1973).

It may not be consitutionally necessary, however, to define the suspect class to include all non-English speaking students. The major non-English speaking groups which suffer discrimination from monolingual schools--Mexican Americans, Puerto Ricans, Asian Americans and Native Americans[30] --qualify as "suspect" racial or ethnic groups apart from their linguistic difference. Thus, suspect status has long been accorded such non-English speaking groups as Chinese Americans,[31] Japanese Americans,[32] and Mexican Americans.[33] There is ample legal precedent and factual basis for establishing Puerto Ricans as an identifiable ethnic and national origin minority for 14th amendment purposes.[34] Native Americans have a unique legal status, but for the purposes of the 14th amendment where discriminatory

---

[29] See U.S. Commission on Civil Rights, California State Advisory Committee, Political Participation of Mexican Americans in California (1971). For a study of Chicano underrepresentation in three Southwestern States, See Padilla and Ramirez, "Patterns of Chicano Representation in California, Colorado and Nuevo Mexico," 5 Aztlan 189 (Fall 1974). The Commission is undertaking further study in this area in connection with congressional hearings regarding the Voting Rights Act. The results will be available by the summer of 1975.

[30] See pp. 14-19, which recite the failure of the American school system to educate children from these groups.

[31] See e.g., Yick Wo v. Hopkins, 118 U.S. 356 (1886)

[32] See e.g., Korematsu v. U.S. 323 U.S. 214 (1944).

[33] See e.g., Hernandez v. Texas, 347 U.S. 475 (1954); Keyes v. School District No. 1 (Denver), 413 U.S. 189 (1973).

[34] See notes 31-33; Galvan v. Levine, 345 F. Supp. 67 (S.D.N.Y. 1972) (three judge court); U.S. Commission on Civil Rights Puerto Rican Report (unpublished report scheduled for release by the summer of 1975).

State actions are concerned, they too must be considered a "suspect" racial group.[35] Language minority students, particularly those from "suspect" racial and ethnic groups, therefore, constitute a "suspect" class which requires special judicial protection from the "majoritarian political process" and its imposition of monolingual education.

Fundamental Interests

Like State action involving "suspect" classifications, governmental actions which abridge "fundamental interests" are also carefully reviewed. If education were such a fundamental interest, then school policies which infringe upon the right to an education would be strictly scrutinized to determine whether there were compelling State justifications for those policies.[36]

In San Antonio School Board v. Rodriguez,[37] however, the Supreme Court, rejecting a constitutional challenge to Texas' system of financing education, ruled that education is not among those substantive rights protected by the Constitution. Although reaffirming its belief in the critical importance of education,[38] a five-justice majority held that the Constitution neither explicitly nor implicitly guarantees to all persons the right to an education.[39] As a result, the Court declined to apply the higher standard of review which would have required the State financing program to be supported by a compelling governmental interest, and found the program sufficient under traditional equal protection standards.

---

[35] See Rosenfelt, Indian Schools and Community Control, 25 Stan L. Rev. 489, 505, 539-541 (1973).

[36] See text accompanying notes 8-13 of this appendix.

[37] 411 U.S. 1 (1973)

[38] Id. at 30-31

[39] Id. at 35

Even though education may not rise to a substantive constitutional right, the Court should not apply a "mere rationality" standard with its inevitable acceptance of the constitutionality of the challenged State action when the education of non-English speaking children is concerned. In recent years, the Court has been relying less and less on the well entrenched "two tier" system of review described above.[40] Despite its use of "two tier" language on occasion,[41] the Court appears to be formulating an alternative approach in some equal protection cases. Confronted by classifications smacking of "suspectness,"[42] the Court, hesitant to invoke strict scrutiny with its inevitable conclusion of unconstitutionality,[43] has sought to carve out a middle level standard of review which is neither strict nor permissive. The Court has revealed a similar reluctance in fundamental interest cases[44] and consequently has utilized the emerging inbetween standard so as to draw distinctions which the "two tier" test inhibits.[45]

---

[40] See Nowak, Realigning the Standards of Review under the Equal Protection Guarantee - Prohibited, Neutral and Permissive Classifications, 62 Geo. L.J. 1071 (1974); Gunther, The Supreme Court, 1973 Term - Forward; In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection, 86 Harv. L. Rev. 1 (1972). Justice Marshall has been the most outspoken in his criticism of the Court's "rigidified approach to equal protection analysis." San Antonio School District v. Rodriguez, 411 U.S. at 98-110 (Marshall, J. dissenting).

[41] Roe v. Wade, 410 U.S. 113, 152-156 (1973); Frontiero v. Richardson, 411 U.S. 677 (1973); San Antonio School District v. Rodriguez, 411 U.S. 1 (1973).

[42] Weber v. Aetna Casualty and Surety Co. 406 U.S. 164 (1972) (illegitimacy); New Jersey Welfare Rights Organization v. Cahill, 411 U.S. 619 (1973) (illegitimacy); Reed v. Reed, 404 U.S. 70 (1971) (sex).

[43] Prof. Gunther has characterized this higher level of review as "strict in theory and fatal in fact." Gunther, n. 40 at 8.

[44] Dandridge v. Williams, 397 U.S. 471 (1970); Bullock v. Carter, 405 U.S. 134 (1972); Lindsey v. Normet, 405 U.S. 56 (1972). See Nowak, n. 40 at 1082-1092.

In short, in cases where an identifiable class with "suspect" characteristics exists and where critical though not "fundamental" interests are at stake, the Court has recently tended to analyze with increased intensity the challenged State action.[46] In these cases, the Court has not accepted any conceivable State interest as legitimating the governmental activities involved and then only subjected the challenged governmental program to minimal review. Instead, the Court in these neither "strict" nor "permissive" scrutiny cases has required that the chosen means in fact further the purported ends of the state actions and has carefully analyzed the asserted governmental justifications for its actions

The maintenance of a monolingual educational program where the school is attended by non-English speaking students, even if not deserving of "active" review, certainly falls within this new trend of cases of "intensified review." Not only is the class which is disadvantaged by the educational policy nearly coterminous with historically suspect categories, but education has consistently been acknowledged as playing a "vital role. . . in a free society."[47] Thus, in this situation, the State must come forward with, if not compelling, at least substantially convincing reasons for its use of a monolingual educational policy. As will be discussed below,[48] such an argument cannot be sustained.

---

[45] *Id.*; Compare James v. Strange, 407 U.S. 128 (1972) with Fuller v. Oregon, 417 U.S. 40 (1974).

[46] San Antonio School District v. Rodriguez, 411 U.S. 1 (1973), at first blush appears to be at odds with this general trend of intensified review. This case, however, is readily distinguished. No identifiable class was found to exist nor was any class found to suffer an "absolute deprivation of the traditionally favored interest of education. *See* discussion *infra*, at 156-158.

[47] San Antonio School Board v. Rodriguez, 411 U.S. at 31. Furthermore, the combined presence of both a traditionally disfavored classification (language and racial/ethnic origin) and a traditionally favored interest (education) warrant intensified review even though each on its own may not be sufficient to trigger this higher level of judicial scrutiny. *See* Note, *The Evolution of Equal Protection-Education, Municipal Service, . and Wealth*, 7 Harv. Civ. Lib. Civ. Rts. L.R. 105 (1972) ("the double helix of equal protection").

"Neutral" State Action

Unlike governmental actions which explicitly contain a classification, instruction exclusively in English does not in and of itself classify students. School officials are quick to argue that any discrimination against non-English speaking students is "de facto" stemming from their English language inabilities, not from any intentionally discriminatory educational plan. The uniform monolingual educational policy which the State neutrally applies to all students, they also assert, is rationally related to the "educational and socializing purposes for which public schools were established."[49] Because they cannot be held responsible for the linguistic "problems" of certain children, school officials deny their accountability for the resulting deprivation of educational opportunities. The Supreme Court, however, has rejected this ostrich-like approach to discrimination, holding repeatedly that facially neutral State programs may be unconstitutional where their inevitable effect is uniformly to exclude an identifiable group of citizens from enjoying a right or governmental benefit available to all others.

The leading case for this proposition that the State must look to the consequences of certain of its actions is Griffin v. Illinois[50]

[48] See infra at 64.

[49] Lau v. Nichols, 483 F.2d 791, 798 (9th Cir. 1973), rev'd 414 U.S. 563 (1974).

[50] Griffin v. Illinois, 351 U.S. 12 (1956).

in which the Supreme Court invalidated a State procedure requiring defendants who desired to appeal their convictions to pay for the preparation of their trial transcripts. The Court ruled that the procedure, although uniform and equally applied to all, unconstitutionally denied indigents access to criminal appellate review. The Court thus focused, in Justice Frankfurter's words, on the "ruthless consequence[s] inevitably resulting from a money hurdle erected by the State."[51] Justice Harlan protested the decision, arguing that "[a]ll that Illinois has done is fail to alleviate the consequences of differences in economic circumstances that exist wholly apart from any State action."[52] Griffin, however, has been consistently followed by the Court in criminal due process cases.[53]

Judicial acceptance of the necessity to focus upon the consequences of State actions has occurred in other areas as well. Thus, in cases concerning voting, the Court has struck down statutes, neutral on their face, which effectively disfranchised indigents[54] and precluded candidates lacking sufficient financial resources from entering primary elections.[55] Finally, in San Antonio School Board v. Rodriguez, the Court, although finding the Texas system for financing education constitutional, nonetheless approved of the Griffin approach.[56] While denying the equal protection challenge to the statutory scheme, the Court did not voice any hesitancy in focusing exclusively upon the consequences of governmental actions.

---

[51] Id. at 23.

[52] Id. at 34 (Harlan, J., dissenting).

[53] See, e.g., Britt v. North Carolina, 404 U.S. 226 (1971); Gardner v. California, 393 U.S. 367 (1969); Douglas v. California, 372 U.S. 353 (1963).

[54] Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966).

[55] Bullock v. Carter, 405 U.S. 134 (1972).

The significance of Griffin and related cases lies in their rejection of the argument that discriminatory consequences which a State chooses to ignore constitutionally cease to exist. State officials simply are not free to ignore the fact that some persons may be deprived of certain State-conferred rights or benefits because of indigency. A denial of equal protection may occur, therefore, where unequal effects flow directly from so called "neutral" State policies, and State officials are responsible for these inequalities.

Although this emphasis upon the consequences of State action has occurred in cases involving discrimination against indigents, the principle that facially neutral State programs may violate the Constitution is equally applicable to the situation of non-English speaking students.

In Rodriguez, the Court, in denying suspect status to "poor" persons affected by the Texas school financing system, elucidated the central characteristics of the indigent class in Griffin and thereby made clear the parallel between monetary and linguistic "hurdles" erected by State policies. The group in Griffin, the Court said, was definable and identifiable as a class completely unable to pay the amount required by the State and, as a result, "sustained an absolute deprivation of a meaningful opportunity to enjoy" a benefit available to others.[57] Unlike the class of "poor" people in Rodriguez which the Court found to be a "diverse and amorphous group,"[58] a class defined as non-English speaking students reflects the characteristics found in Griffin. Persons unable to understand English are at least as easily definable and identifiable as are indigents. Moreover, the consequences of membership in this easily delineated group are the same as in Griffin. The inevitable result of a monolingual educational program is "absolute" exclusion from the educational process until English is learned.

---

[56] 411 U.S. at 20-25

[57] San Antonio School Board v. Rodriguez, 411 U.S. at 20.

[58] Id. at 28.

The Court in Rodriguez, elaborating on its "absolute deprivation" distinction, emphasized that all students in Texas were being afforded an "adequate education".[59] The same statement simply cannot be made for language minority students. Until English proficiency sufficient to comprehend the instruction being given is garnered, no meaningful education of non-English speaking students in monolingual schools can take place; it becomes a "meaningless ritual."[60] Denying these children an "adequate education," the schools impose upon non-English speaking children the same kind of "absolute deprivation" of "meaningful opportunities" denied indigents in Griffin.[61] This exclusion of non-English speaking students from the educational benefits afforded other students violates the very essence of Griffin:

---

[59] Id. at 24.

[60] Douglas v. California, 372 U.S. 353, 358 (1963). As one commentator observed: "Even if non-English speaking children acquire some minimal quantum of knowledge and skills/ despite being instructed in a language they cannot understand/, the enduring negative attitudes fostered under these circumstances may reduce the sum total of what the school imparts to zero, or even worse than nothing." Grubb, Breaking the Language Barrier: The Right to Bilingual Education, 9 Harv. Civ. Lib L.R. 52, 85 (1974).

> Griffin v. Illinois and its progeny establish the principle that the State must, as a matter of equal protection, provide indigent prisoners with the basic tools of an adequare defense or appeal, when those tools are available for a price to other prisoners. 62

Similarly, the schools, having undertaken the responsibility of educating children, must provide non-English speaking students with the basic tools of an adequate education. The failure to do so offends the Constitution.

Intent

A classification based on the ability to speak English, while it parallels the classification based on indigency found unconstitutional in Griffin, nonetheless derives its suspect status in part from its direct linkage to race and national origin distinctions.[63] In cases involving

---

61. The same analysis focusing upon the denial of meaningful access to rights and benefits open to others was used by the Court in Ross v. Moffitt, 417 U.S. 600, 611-616 (1974), where the Court ruled that a State, which affords an indigent defendant with an "adequate opportunity" to present his claims fairly in the State's appellate process by providing him with counsel, does not deny the "meaningful access" to appellate review required by the fifth and 14th amendments when counsel is not supplied for discretionary appeals. While acknowledging that such a ruling imposes a "relative handicap" on indigents which non-indigents do not suffer, the handicap was found to be "less than the handicap" borne by indigents in Griffin. The principal of this case is directly applicable to non-English speaking students: "meaningful access" to State-conferred rights to an education does not occur where individuals are not afforded an "adequate opportunity" to exercise those rights. See also Sosna v. Iowa, ____U.S.____, 43 U.S.L.W. 4125 (Jan. 14, 1975) (1 year residency requirement for divorce constitutional because divorce not "irretrievably foreclosed"; "access" is only "delayed").

62. Britt v. North Carolina, 404 U.S. 226, 227 (1971).

63. See text accompanying notes 30-35.

these suspect classifications, however, the Court has declined to adopt the Griffin approach, despite the fact that race and national origin classifications are more firmly rooted in constitutional history and precedent than indigency.[64] Particularly in the area of school segregation, the Court has indicated that its focus is not on the effects of State actions, but on the intent underlying these activities.[65] School officials in these cases have maintained that they have no wrongful intent, stressing their argument that school segregation involved is adventitious, and hence, "de facto."

Regardless of the Court's final word on so called de facto school segregation,[66] there are several reasons why the intent ingredient developed in school segregation case law should not be carried into cases involving language minority students' struggles for equal educational opportunity. Significantly, the class discriminated against by school boards operating a de facto segregated school system lacks a critical characteristic noted above which is found in the Griffin line of cases. Students attending de facto segregated schools do not suffer an "absolute deprivation of a meaningful opportunity" to obtain an education; they still are afforded at least some opportunity to obtain an education, albeit one that may not be equal to that obtainable at integrated schools.[67] As in Rodriguez, they arguably are being afforded an "adequate education."[68] The total exclusion found in Griffin is not found in so-called de facto school segregation cases. It clearly exists with respect to non-English speaking students. As stated by the Court in Lau:" . . .students who do not understand English are effectively foreclosed from any meaningful education."[69]

---

[64] See n. 7 of this appendix. Lower courts, however, have focused on the effects of State actions in cases involving racial discrimination. See e.g., Hobson v. Hansen, 269 F. Supp. 401 (D.D.C. 1967), aff'd sub nom. Smuck v. Hobson, 408 F.2d 175 (D.C. Cir. 1969); Norwalk CORE v. Norwalk Redevelopment Agency, 395 F.2d 920 (2d. Cir. 1968); Chance v. Board of Examiners, 458 F.2d (2d Cir. 1972).

[65] In Keyes v. School District No. 1 (Denver), 413 U.S. 198 (1973), the Court decided that only intentionally segregatory actions by school officials are unconstitutional. In evaluating whether this constitutional violation has been remedied, however, the Court does not consider intent to be relevant. Instead, it focuses exclusively upon the effects of the remedial efforts. See e.g., Wright v. Council of the City of Emporia, 407 U.S. 451, 462 (1972).

[66] See Justice Powell's separate opinion in Keyes v. School District No. 1, 413 U.S. at 217 where he argues for the abolition of the de jure/de facto segregation distinction and its emphasis upon intent. The Commission has long held the position that whether the segregation is intentional or adventitious, segregation should be eliminated from our public school systems. See U.S. Commission on Civil Rights, Racial Isolation in the Public Schools (1967) (hereafter cited as Racial Isolation).

---

[67] See Racial Isolation, n. 65 at 73-114.

[68] San Antonio School District v. Rodriguez, 411 U.S. at 24; see text accompanying notes 59-61.

[69] Lau v. Nichols, 414 U.S. at 566.

Moreover, in addition to the difference in the extent of the deprivation, in Griffin it was clear that the State's facially neutral action factually resulted in inequality. Similarly, there can be no serious debate that unequal educational opportunities result from a monolingual educational policy. Whether de facto segregated schools are in fact "inherently unequal," however, has been vigorously debated.[70]

Where the harm caused by the alleged "neutral" State action is subject to question, and the State program can be rationally supported, the Court has at least some basis for requiring invidious intent as an element of State action before invalidating the activity.[71] A facially neutral policy such as a neighborhood school system, for example, may conceivably further legitimate interests of a community, such as permitting children who play together in their "neighborhood" to attend school together. In absence of proof that a rational scheme causes demonstrable injury to minorities, the Court's reluctance to strike down legitimate

---

70. Compare Racial Isolation with Cohen, Pettigrew, and Riley, "Race and the Outcomes of Schooling" in On Equality of Educational Opportunity, Mosteller and Moynihan, Eds., (1972).

71. See generally Goodman, De Facto School Segregation: A Constitutional and Empirical Analysis, 60 Cal. L. Rev. 275, 298-320 (1972).

policies without proof of wrongful intent to segregate the schools[72] is at least understandable.[73] Where the harm is obvious, however, an intent requirement is not only unnecessary, but in fact becomes a shield for invidious discrimination. With respect to non-English speaking children, the harm is painfully clear. Whatever rational basis a monolingual educational policy might have, it will inevitably work to the detriment of non-English speaking students. School officials must be aware of the numerous studies documenting the destructive consequences of monolingual education.[74] To excuse a monolingual educational approach on the basis that school officials do not intend these consequences is to sanction continued discrimination. To permit the States to close their eyes to these consequences of their actions on the grounds that they have no invidious intent[75] is to play semantic games with the education and the futures of non-English speaking children.

---

[72] Thus, in U.S. v. Bd. of Sch. Comm'rs of Indianapolis, Ind., 474 F.2d 81 (7th Cir. 1973), the court invalidated a neighborhood school plan because it was intentionally used to cause school segregation.

[73] This is not to suggest that a neighborhood school policy is constitutional absent invidious intent. See, e.g., Brewer v. School Bd. of City of Norfolk, Va., 397 F.2d 37, 41-42 (4th Cir. 1968). Where there is a history of de jure school segregation, it is the effect of school officials' decisions, not their intent, which is the determining factor. See n. 65 of this appendix.

[74] See pp. 13-19.

[75] In light of this Nation's history of discrimination because of race, color or religion against non-English speaking minority groups, the extent to which the exclusive use of English in the public schools is not the product of a discriminatory intent is open to question. See Liebowitz, The Imposition of English as the Language of Instruction in American Schools, n. 24, supra; See also pp. 5-10.

State Interests

It has been argued thus far that a monolingual educational policy discriminates against a class with "suspect" characteristics (non-English speaking children) in an area of critical if not fundamental, importance (education) and that as a result the courts must subject such an educational program to either "active" or "intensive" review. Arguments seeking to excuse the discrimination inherent in the imposition of instruction exclusively in English on the grounds that such discrimination is de facto have been rejected. Consequently, the Constitution requires school officials to support their monolingual educational program by coming forward with valid State interests which can withstand careful judicial analysis.[76] If school officials cannot demonstrate that as a factual matter exclusive instruction in English furthers legitimate objectives of the public education system, then monolingual programs should be judged constitutionally deficient and an approach more tailored to the needs of non-English speaking children must be implemented.

Obviously, a monolingual policy does not in fact further the objective of supplying all children with an education. Regardless of the exact nature of the purpose of public education, such an education when it is given exclusively in English is not communicated to non-English speaking children. Without the basic tool of English proficiency, non-English speaking children cannot gain the substantive knowledge, the cognitive and expressive skills or the healthy self concept which the public schools attempt to impart to students.[77]

---

[76] *See* pp. 152-155.

Another stated objective of public schools and a monolingual educational program is to make all students proficient in English and thereby replace any "foreign" mother tongues with English.[78] Where there are isolated and insubstantial numbers of language minority students, the "total immersion" method of language learning, which posits that a young child submerged in an exclusively English school environment will develop English language skills, may conceivably work to achieve the goal.[79] But many children raised on one language will not become proficient in English, much less substitute English for their mother tongue, simply by being exposed to it. Constantly reinforced by its use in the community from which the students come, their native language will not be discarded for a second language which monolingual schools have no systematic means for teaching. Where there are large numbers of non-English speaking students, particularly from minority groups discriminated against because of their race or national origin, the overwhelming weight of the evidence is that the total immersion method inevitably fails. In any event, given this massive failure by monolingual schools to educate these students, the burden of proof surely rests with the schools to provide empirical support that the means chosen (monolingual education) actually do further any of its stated ends.[81] Such a burden simply cannot be sustained.

---

[77] *See* notes 17-19 of this appendix.

[78] *See* Meyer v. Nebraska 262 U.S. 390, 401-402 (1923); Lau v. Nichols, 483 F.2d 791, 798, (9th Cir. 1973), *rev'd* 414 U.S. 563 (1974): ". . ./_T_/he State's use of English as the language of instruction in its schools is intimately and properly related to the educational and socializing purposes for which public schools are established. This is an English-speaking nation."

[79] *See* pp. 66-75.

See pp. 13-18.

The existence of educational alternatives less onerous to non-English speaking children further undercuts any State effort to justify instruction exclusively in English. Educators have developed and are continuing to refine methods for effectively instructing non-English speaking children, ranging from rudimentary English as a Second Language (ESL) programs to sophisticated bilingual bicultural programs.[82] Of course, there are initial monetary costs for designing and implementing such programs, purchasing special educational materials, and training administrators and faculty. After these investments are made, however, nearly all remaining costs will be for instruction.[83]

It is these limited financial concerns which school officials have advanced in support of monolingual education.[84] The Supreme Court has acknowledged that a State may legitimately seek to preservé the fiscal integrity of its programs.[85] School officials must make hard choices when there are competing demands on their limited budgets and they need not attack every aspect of all problems which confront them.[86] Nonetheless:

---

[81] In cases involving racial discrimination, where a prima facie case has been made, the courts increasingly have shifted to the defendants the evidentiary burden of justifying their activities. See Keyes v. School District No. 1, 413 U.S. 189 (1973); P. v. Riles, 343 F. Supp. 1306 (N.D. Cal. 1972).

[82] See pp. 22-60.

[83] In this connection, it must be remembered that the parents of non-English speaking students are paying for instruction through their taxes. But their sons and daughters receive no meaningful benefits from these tax dollars so long as a monolingual instructional system is used.

[84] See Serna v. Portales Municipal Schools 351 F. Supp. 1279, 1383 (D.N. Mex 1972), aff'd 499 F.2d 1147 (10th Cir. 1974); Lau v. Nichols, 483 F.2d at 804 (District Judge Hill disenting).

> . . .a State may not accomplish /its/ purpose by invidious distinctions between classes of its citizens. It could not, for example, reduce expenditures for education by barring indigent children from its schools. . . .The saving. . . cannot justify an otherwise invidious classification.[87]

Similarly, States cannot save money at the exclusive expense of non-English speaking students. If the harm they suffered were for relatively short periods of time and insubstantial, the State arguments would have more constitutional significance.[88] But the disadvantage visited upon non-English speaking students is of lifelong duration. As the Court stated in Brown v. Board of Education:

> In these days, it is doubtful that any child may reasonably be expected to succeed in life if he /or she/ is denied the opportunity of an education.[89]

The long term disadvantage caused by a monolingual policy, coupled with the relatively small amounts of money needed to implement programs for non-English speaking students and the fact that money presently spent on monolingual instruction essentially is being wasted on non-English speaking students, make State financial claims border on the frivolous.

---

85. Shapiro v. Thompson, 394 U.S. 618, 633 (1969).

86. Dandridge v. Williams, 397 U.S. 471, 487 (1970).

87. Shapiro v. Thompson, 374 U.S. at 633; See also Frontiero v. Richardson, 411 U.S. 677, 690 (1973).

88. See Developments - Equal Protection, supra n. 5 at 1104.

89. 347 U.S. 483, 493 (1954).

The Remedy

As this report documents, the range of programs which facilitate the education of non-English speaking students is broad. The appropriateness of any particular program will depend on numerous factors, such as the concentration of language minority students in the community, their English language ability level, the attitudes of the language minority group and the English speaking cultural majority towards one another, and the desire on the part of the minority community for nurturing minority language and culture.[90]

The Supreme Court has long recognized that local school conditions such as these must be considered in developing constitutional remedies.[91] Accordingly, in school desegregation cases the Court properly placed "the primary responsibility for elucidating assessing and solving these problems"[92] on local school authorities to determine in the first instance the kind and scope of measures required to remedy constitutional violations.

---

[90] See pp. 78-83.

[91] See, e.g., Brown v. Board of Education (II), 349 U.S. 294 (1955).

[92] Id. at 299.

The standard for judicial evaluation of plans developed by local school officials for non-English speaking students should be the same standard the Supreme Court has utilized in school desegregation cases: does the plan promise realistically to work, and promise realistically to work *now*?[93] As in desegregation cases, school officials should also be compelled to eliminate as far as possible all discriminatory effects of their unconstitutional actions.[94] School officials, therefore, must implement programs which are addressed to the language needs of older students that have been neglected. Similarly, insofar as the exclusion of non-English speaking students from meaningful participation in educational programs has created a stigmatizing atmosphere toward the language and culture of non-English speaking children, appropriate steps must also be taken to overcome these discriminatory effects by incorporating into the educational curriculum materials which reflect these linguistic and cultural differences.[95]

---

[93] Green v. County School Bd., 391 U.S. 430, 439 (1968). Educational programs specifically designed for non-English speaking students were obtained in at least two lawsuits initiated to remedy *de jure* school segregation. U.S. v. Texas, 321 F. Supp. 1043 (E.D.Tex. 1970), supplemented by 330 F. Supp. 235 (E.D. Tex. 1971), *aff'd* 447 F.2d 441 (5th Cir.), *cert denied* 404 U.S. 1016 (1972); Keyes v. School District No. 1, 380 F. Supp. 673, 692, 694-696 (D. Colo. 1974) *on remand from* 413 U.S. 189 (1973). Other litigation which has resulted in programs for non-English speaking students is Serna v. Portales Municipal Schools, 499 F.2d 1147 (10th Cir. 1974), and ASPIRA of New York v. Bd. of Educ. of the City of New York, 72 Civ. 4002 (S.D.N.Y., consent decree, Aug. 29, 1974). The plan mandated by Lau v. Nichols (see n. 2 of this appendix) awaits the decision of the district court on remand.

[94] Green v. County School Bd., 391 U.S. at 438.

[95] *See* pp. 30-38 and 71-78.

In sum, effectiveness in opening up the educational program to non-English speaking students and in overcoming the harmful vestiges of past discrimination should be the yardstick by which to measure local school plans.

Finally, it should be noted that non-English speaking students' right to equal educational opportunity does not vary with their number in a school system.[96] The constitutional principle is not invalidated because there may be but a single or just a few non-English speaking students attending a particular school. Schools must still take some measures to assure that such students have access to the educational curriculum. Numbers are important, however, in determining the most appropriate program.

Where there are very small numbers of non-English speaking children, some minimal instruction in English language skills may be a constitutionally sufficient program. In other situations--for example, where there are large numbers of Mexican American children--curricula may be required which utilize the children's native language and culture as a medium and point of departure for instruction.[97] The issue is not whether school officials have an obligation to respond to non-English speaking students' educational needs, but whether that obligation has been reasonably discharged.

---

[96] Compare Justice Blackmun's concurring opinion in Lau v. Nichols 414 U.S. at 572: "For me, numbers are at the heart of this case. . ."

[97] See pp. 78-83 for a discussion of the range of programs and some key variables, particularly the number of language minority students involved, which are critical for determining the most appropriate type of program.

Conclusion

Non-English speaking children, particularly those from racial or ethnic groups historically subjected to discrimination, in nearly all of our Nation's schools are not being offered an educational program on the same terms as that being offered English speaking children. Students who begin school with limited or no English skills and who as a result are unable to benefit from an exclusively English educational cirriculum are thus denied equal educational opportunity. In this critical area, the Constitution is satisfied by nothing less than equal access by all citizens, English speaking or not, to the opportunities provided by our Nation's educational systems.

APPENDIX B

FEDERAL POLICY ON BILINGUAL EDUCATION

LEGISLATION

Bilingual Education Acts of 1968 and 1974

The 1968 Bilingual Education Act or Title VII of the Elementary and Secondary Education Act of 1965, as amended, provided supplemental funding for school districts interested in establishing programs to meet the "special educational needs of large numbers of children of limited English speaking ability in the United States."[1] The children served under Title VII also had to be from low income families.[2] Funding was provided for planning and developing bilingual programs, preservice training, and for operation of programs, including bilingual education, early childhood education, adult education, dropout programs, vocational programs, and courses dealing with the history and culture of the language minority group being served.[3]

Between 1969 and 1973, $117.9 million was expended under Title VII,[4] most of which went for support of bilingual programs in elementary schools. Of this amount 12 percent was utilized in special bilingual education projects, including bilingual children's television, curriculum centers, curriculum centers, and a dissemination center.[5]

---

[1] 20 U.S.C. §880b et seq. (1970). See Attachment 1.

[2] 20 U.S.C. §880b-2a (1970).

[3] 20 U.S.C. §880b-2 (1970).

[4] In 1969, $6.7 million; 1970, $19.0 million; 1971, $25.5 million; 1972, $33.5 million; and 1973, $33.2 million. Julie Rendely, Program Assistant, Dividion of Bilingual Education, U.S. Office of Education, telephone interview, Nov. 14, 1974.

[5] Special projects were as follows: Project B.E.S.T. (Testing), New York, N.Y., $1.6 million; Bilingual Children's Television, Berkeley, Cal., $2.4 million; curriculum project, Miami, Fla., $2.7 million; curriculum project, San Diego, Cal., $2.0 million; dissemination center, Austin, Tex., $2.3 million; and school in Stockton, Cal., $2.3 million. Rendely interview.

The greatest weakness in the 1968 act was its failure to systematize means of determining success in programs funded under the act. Thus, after the first 5 years, little was known about what comprises successful programs or indeed what progress had been made to overcome the obstacles faced by language minority children in school.[6]

The Bilingual Education Act of 1974,[7] which superseded the 1968 Act was more explicit in intent and design. Children need no longer be low income, a criterion that had previously prevented Title VII from meeting the needs of large numbers of language minority children. For the first time, the Federal Government provided a definition of what constitutes a bilingual education program.

> instruction given in, and study of, English and to the extent necessary to allow a child to progress effectively through the educational system, the native language of the children of limited English-speaking ability, and such instruction is given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system.[8]

---

[6] The first portion of an evaluation of Title VII programs was completed in Dec. 1973. That portion did not evaluate how well Title VII programs improved students' educational performance. Instead, the emphasis was on the extent to which Title VII projects adhered to guidelines and the relationship between such adherence and project success. Determinations of success were based on subjective ratings on a scale of 1 to 5 assigned to different program components by evaluation team leaders. The second part of this evaluation, which is still in process will address the effect of programs on standardized tests and other measures of student progress. See A Process Evaluation of the Bilingual Education Program, Title VII, Elementary and Secondary Education Act, vol. 1. prepared by Development Associates, Inc. under contract to the U.S. Office of Education, Dec. 1973.

[7] 20 U.S.C.A. §880b et. seq. (Supp. 1975).

[8] 20 U.S.C.A. §880b-1(a)(4)(A)(6) (Supp. 1975).

The law goes on to stipulate that in such courses as art, music, and physical education children of limited English speaking ability should be in regular classes in the school.[9] Support was provided for bilingual programs, supplemental community activities, training programs, fellowships, planning for programs, and technical assistance.[10]

New features included a requirement that the Commissioner of Education and the National Advisory Council for Bilingual Education (set up under Title VII) report to Congress on the state of bilingual education in the Nation.[11] This report would include a national assessment of the educational needs of children and others of limited English-speaking ability, an evaluation of Title VII activities, a description of teacher and other bilingual personnel requirements, and a statement of the next year's intended bilingual education activities and their costs.[12] Under the new legislation, a separate provision authorizes an appropriation of $40.25 million over a 5 year period[13] under which State education agencies are eligible to receive training grants, along with local school districts and institutions of higher education.[14] Most importantly, research was to be conducted by the National Institute of Education of

---

9. 20 U.S.C.A. §880b-1(a)(4)(c) (Supp. 1975).
10. 20 U.S.C.A. §880b-7-b-9 (Supp. 1975).
11. 20 U.S.C.A. §880b-11(c) (Supp. 1975).
12. 20 U.S.C.A. §880b-10(c) (Supp. 1975).
13. 20 U.S.C.A. §880b(b)(2) (Supp. 1975).
14. 20 U.S.C.A. §880b-7 (Supp. 1975).

HEW for purposes of developing and disseminating instructional materials and equipment for bilingual education programs nationwide.[15] In addition, the Secretary of Interior was charged with providing an annual assessment of the needs of native Americans students for bilingual education, and a review and evaluation of the use of bilingual education funds.[16]

While on its face the new bilingual legislation would appear to overcome many of the problems inherent in the old act, the nature of evaluations is still not clear and support for the overall program has been limited. Although the act received authorizations of $135 million, $135 million, $140 million, $150 million, and $160 million for each of 5 years,[17] Congress voted only $85 million for the first year's actual appropriation.[18]

The Equal Educational Opportunity Act of 1974[19]

Contrary to what its name implies, Title II of the Education Amendments of 1974 or the Equal Educational Opportunity Act of 1974 does not have as its purpose an expansion of means for increasing equal educational opportunities. Instead, it imposes the strongest Congressional limitations to date on the use of transportation or "busing" as a means for overcoming discrimination based on race, color, sex, or national origin.

---

[15] 20 U.S.C.A. §880b-13 (Supp. 1975).

[16] 20 U.S.C.A. §880b-8(c)-(d).

[17] 20 U.S.C.A. §880b(b)(1).

[18] Angel Gonzalez, Chief, Program Operations Branch, Division of Bilingual Education, telephone interview, Mar. 3, 1975.

[19] 20 U.S.C.A. §1701 et seq. (Supp. 1975). See Attachment 2.

As such, it seriously hampers the abilities of Federal courts and the Department of Health, Education, and Welfare to seek the most comprehensive remedy possible in cases of school segregation.

The act declares Congressional policy to be, (1) that all children enrolled in public school are entitled to equal educational opportunity regardless of race, color, sex, or national origin; (2) that public school assignments should be based on the neighborhood in which children reside.[20] Aside from raising formidable obstacles against the use of transportation to achieve desegregation, the act provides a list of six acts that the Congress defines as constituting a denial of equal educational opportunity.

Among them is:

> the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional program. [21]

The act provides for the initiation of civil action by individuals who have been denied equal educational opportunity and thus provides a direct statutory right of action to language minority persons seeking to vindicate their rights to equal educational opportunity through the institution of effective language programs in the public schools.

---

[20] 20 U.S.C.A. §1701 (Supp. 1975).

[21] 20 U.S.C.A. §1703(f) (Supp. 1975).

ENFORCEMENT

The May 25 Memorandum

It has been more than 4 years since the Department of Health, Education, and Welfare issued its memorandum of May 25, 1970, in which the agency stipulated that school districts with more than 5 percent national origin minority group children have an obligation under Title VII to equalize educational opportunity for language minority students.[22] Seventy-two districts, or 4 percent of all districts with 5 percent or more language minority children, have been reviewed by the agency's Office for Civil Rights to determine their compliance with provisions of the memorandum.[23]

Although school districts are required to provide some form of language program to meet the needs of language minority children, the May 25 Memorandum does not specify what type of program this should be. Nevertheless, when a district has not provided an educational program for language minority students, the agency has strongly suggested that a curriculum be developed which does not penalize language minority students for their language and culture. For example, following its onsite review of the El Paso Independent School District, HEW made the following recommendation concerning the type of plan which must be developed to overcome discrimination against language minority students:

---

[22] See Attachment 3.

[23] Summary Sheet. Status of Equal Educational Services Reviews Conducted by OCR since release of May 25, 1970 Memorandum. March 1974 Report.

> Such a plan will include, among other things, an affirmative policy of recruiting and employing teachers who are bilingual and sensitive to these cultural differences; and a staff development program designed to assist teachers and administrators in redefining their role in a bilingual/bicultural district and in the development of a curriculum that does not penalize students who come to school with principal language skills in Spanish. [24]

The school district submitted a plan which included a general outline of its intention to have an adequate representation of minority and bilingual teachers by 1977.[25] In addition, the district proposed that a program be instituted in which both Spanish speaking and English speaking children would develop skills in the native language, while receiving intensive second language instruction. The plan was accepted by HEW.[26]

Another school district, the Socorro Independent School District in Texas, was similarly required to submit a plan to provide language minority students with an adequate educational program. The district indicated it would "attempt to develop a bilingual bicultural curriculum," hire bilingual aides, and introduce a language arts program using both Spanish and English for grades kindergarten through six.[27]

---

[24] Letter to Dr. H.E. Charles, Superintendent, El Paso Independent School District, El Paso, Tex., from Dorothy D. Stuck, Regional Director, Office for Civil Rights, Region VI (Dallas). June 13, 1972.

[25] Comprehensive Educational Plan submitted by El Paso Independent School District, El Paso, Tex., approved by the Office for Civil Rights, Aug. 15, 1972.

[26] Letter to Dr. H. E. Charles, Superintendent, El Paso Independent School District, El Paso, Tex. from Dorothy D. Stuck, Regional Director, Office for Civil Rights, Region VI (Dallas). Aug. 15, 1972.

[27] Letter to Mr. John A. Bell, Chief, Education Branch, Region VI, OCR from H. W. Harmon, Superintendent, Socorro Independent School District, Dec. 13, 1972.

HEW has the authority to withdraw Federal financial assistance in cases where school districts are found in noncompliance and are unwilling to submit satisfactory plans to correct discrimination. There has been only one enforcement proceeding under the May 25 Memorandum. On the basis of noncompliance, HEW charged the Uvalde Independent School District with unlawful segregation of Mexican American students in elementary schools, discriminatory ability grouping, and failure to provide bilingual bicultural education.[28] The administrative law judge found that schools were illegally segregated, but declared the school district to be in compliance in the other three areas.[29]

Following Lau v. Nichols, however, the Reviewing Authority reversed the administrative law judge on two of those three issues. The failure to provide bilingual bicultural education and the nature of the district's ability grouping practices did deny the language minority students equal educational opportunity, according to the Reviewing Authority.[30] In requiring that bilingual bicultural education be undertaken in order to provide equal educational opportunity for language minority students, the Reviewing Authority took the strongest official Federal position thus far on what constitutes compliance with the May 25 Memorandum.

---

[28] Letter to Mr. R. E. Byrom, Superintendent, Uvalde Independent School District, Uvalde, Tex., from Dorothy D. Stuck, Regional Director, Office for Civil Rights, Region VI (Dallas). June 15, 1971.

[29] Board of Education of Uvalde Independent School District, Uvalde, Texas, and Texas Education Agency, Docket No. S-47 (Administrative Proceedings in the Department of Health, Education, and Welfare and the National Science Foundation) (Initial Decision of the Administrative Law Judge, Nov. 21, 1973).

[30] Board of Education of Uvalde Independent School District, Uvalde,Texas, and Texas Education Agency, Docket No. S-47. (Administrative Proceedings in the Department of Health, Education, and Welfare and the National Science Foundation) (Final Decision of the Reviewing Authority (Civil Rights), July 24, 1974).

Lau v. Nichols[31]

The case of Lau v. Nichols was a class suit which charged the San Francisco Unified School District with failure to provide all non-English speaking students with special instruction to equalize their educational opportunity. The plaintiffs contended that their rights had been abridged under the U.S. Constitution, the California Constitution, Title VI of the Civil Rights Act of 1964, and provisions of the California Education Code.[32]

After being denied relief at lower court levels, the case was appealed to the Supreme Court. In January 1974 the Court ruled that there had been a denial of equal educational opportunity under Title VI of the Civil Rights Act of 1964.[33] The Court chose not to rule on whether there had been a violation of Constitutional rights. The case was remanded to the U.S. district court for the fashioning of an appropriate remedy for the discrimination.

The school district has been working with a citizens' task force to develop the remedy. The Lau remedy promises to set the example for other districts contemplating their responsibilities to provide equal educational opportunity for language minority students. HEW has also been involved in formulation of the remedy, since it is interested that the remedy be consistent with standards adopted by HEW in enforcement of the May 25 Memorandum.

---

32. 483 F. 2d. 791, 793 (1973).

33. 42 U.S.C. §2000d (1970).

TITLE VII—BILINGUAL EDUCATION PROGRAMS

SHORT TITLE

SEC. 701. This title may be cited as the "Bilingual Education Act".

DECLARATION OF POLICY

SEC. 702. In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs. For the purposes of this title, "children of limited English-speaking ability" means children who come from environments where the dominant language is other than English.

(20 U.S.C. 880b) Enacted Jan. 2, 1968, P.L. 90-247, Title VII, Sec. 702, 81 Stat 816.

AUTHORIZATION AND DISTRIBUTION OF FUNDS

SEC. 703. (a) For the purposes of making grants under this title, there is authorized to be appropriated the sum of $15,000,000 for the fiscal year ending June 30, 1968, $30,000,000 for the fiscal year ending June 30, 1969, $40,000,000 for the fiscal year ending June 30, 1970, $80,000,000 for the fiscal year ending June 30, 1971, $100,000,000 for the fiscal year ending June 30, 1972, and $135,000,000 for the fiscal year ending June 30, 1973.

(b) In determining distribution of funds under this title, the Commissioner shall give highest priority to States and areas within States having the greatest need for programs pursuant to this title. Such priorities shall take into consideration the number of children of limited English-speaking ability between the ages of three and eighteen in each State.

(20 U.S.C. 880b-1) Enacted Jan. 2, 1968, P.L. 90-247, Title VII, Sec. 702, 81 Stat. 816; amended April 13, 1970, P.L. 91-230, Title I, Sec. 151, 84 Stat. 151.

USES OF FEDERAL FUNDS

SEC. 704. Grants under this title may be used, in accordance with applications approved under section 705, for—

(a) planning for and taking other steps leading to the development of programs designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from families (A) with incomes below $3,000 per year, or (B) receiving payments under a program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, including research projects, pilot projects designed to test the effectiveness of plans so developed, and the development and dissemination of special instructional materials for use in bilingual education programs; and

(b) providing preservice training designed to prepare persons to participate in bilingual education programs as teachers, teacher-aides, or other ancillary education personnel such as counselors, and inservice training and development programs designed to enable such persons to continue to improve their qualifications while participating in such programs; and

(c) the establishment, maintenance, and operation of programs, including acquisition of necessary teaching materials and equipment, designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from families (A) with incomes below $3,000 per year, or (B) receiving payments under a program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, through activities such as—

(1) bilingual education programs;

(2) programs designed to impart to students a knowledge of the history and culture associated with their languages;

(3) efforts to establish closer cooperation between the school and the home;

(4) early childhood educational programs related to the purposes of this title and designed to improve the potential for profitable learning activities by children;

(5) adult education programs related to the purposes of this title, particularly for parents of children participating in bilingual programs;

(6) programs designed for dropouts or potential dropouts having need of bilingual programs;

(7) programs conducted by accredited trade, vocational, or technical schools; and

(8) other activities which meet the purposes of this title.

(20 U.S.C. 880b-2) Enacted Jan. 2, 1968, P.L. 90-247, Title VII, sec. 702, 81 Stat. 817.

APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

SEC. 705. (a) A grant under this title may be made to a local educational agency or agencies, or to an institution of higher education applying jointly with a local educational agency, upon application to the Commissioner at such time or times, in such manner and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purpose set forth in section 704 and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) set forth a program of such size, scope, and design as will make a substantial step toward achieving the purpose of this title;

(4) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds (including funds made available under title I of

this Act) that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 704, and in no case supplant such funds;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title;

(6) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(7) provide assurance that provision has been made for the participation in the project of those children of limited English-speaking ability who are not enrolled on a full-time basis; and

(8) provide that the applicant will utilize in programs assisted pursuant to this title the assistance of persons with expertise in the educational problems of children of limited English-speaking ability and make optimum use in such programs of the cultural and educational resources of the area to be served; and for the purposes of this paragraph, the term "cultural and educational resources" includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

(b) Applications for grants under title may be approved by the Commissioner only if—

(1) the application meets the requirements set forth in subsection (a);

(2) the program set forth in the application is consistent with criteria established by the Commissioner (where feasible, in cooperation with the State educational agency) for the purpose of achieving an equitable distribution of assistance under this title within each State, which criteria shall be developed by him on the basis of a consideration of (A) the geographic distribution of children of limited English-speaking ability, (B) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in paragraph (c) of section 704, and (C) the relative ability of particular local educational agencies within the State to provide those services and activities;

(3) the Commissioner determines (A) that the program will utilize the best available talents and resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (B) that, to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which this program is intended to meet, provision has been made for participation of such children; and

(4) the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

(20 U.S.C. 880b-3) Enacted Jan. 2, 1968, P.L. 90-247, Title VII, sec. 702, 81 Stat. 817.

CHILDREN IN SCHOOLS ON RESERVATIONS

SEC. 706. (a) For the purpose of carrying out programs pursuant to this title for individuals on reservations serviced by elementary and secondary schools operated on such reservations for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section, may be considered to be a local educational agency as such term is used in this title.

(b) From the sums appropriated pursuant to section 703, the Commissioner may also make payments to the Secretary of the Interior for elementary and secondary school programs to carry out the policy of section 702 with respect to individuals on reservations serviced by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for that purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702.

(20 U.S.C. 880b-3a) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 152(a), 84 Stat. 151.

PAYMENTS TO APPLICANTS

SEC. 707 (a) The Commissioner shall pay to each applicant which has an application approved under this title an amount equal to the total sums expended by the applicant under the application for the purposes set forth therein or, in the case of payments to the Secretary of the Interior, an amount determined pursuant to section 706(b).

(b) Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(20 U.S.C. 880b-4) Enacted Jan. 2, 1968, P.L. 90-247, Title VII, Sec. 702, 81 Stat. 819; redesignated and amended April 13, 1970, P.L. 91-230, Title I, Sec. 152(a), (b), 84 Stat. 151, 152.

ADVISORY COMMITTEE

SEC. 708. (a) The Commissioner shall establish in the Office of Education an Advisory Committee on the Education of Bilingual Children, consisting of fifteen members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary. The Commissioner shall appoint one such member as Chairman. At least seven of the members of the Advisory Committee shall be educators experienced in dealing with the educational problems of children whose native tongue is a language other than English.

(b) The Advisory Committee shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the development of criteria for approval of applications thereunder. The Commissioner may appoint such special advisory and technical experts and consultants as may be useful and necessary in carrying out the functions of the Advisory Committee.

(20 U.S.C. 880b–5) Enacted Jan. 2, 1968, P.L. 90–247, Title VII, Sec. 702, 81 Stat. 819; redesignated and amended April 13, 1970, P.L. 91–230, Title I, Secs. 152(a), 153, Title IV, 401(h)(3), 84 Stat. 151, 152, 174.

TITLE VIII—GENERAL PROVISIONS

DEFINITIONS

SECTION 801. As used in titles II, III, V, VI,[1] and VII of this Act, except when otherwise specified—

(a) The term "Commissioner" means the Commissioner of Education.

(b) The term "construction" means (1) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefore; or (2) acquisition of existing structures not owned by any agency or institution making application for assistance under this Act; or (3) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(c) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(d) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(e) The term "institution of higher education" means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however*, That in the

---

[1] Repealed effective July 1, 1971.

1974 ACT

BILINGUAL EDUCATIONAL PROGRAMS

81 Stat. 816; 84 Stat. 151. 20 USC 880b. SEC. 105. (a)(1) Title VII of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

Bilingual Education Act. 20 USC 880b note.

"TITLE VII—BILINGUAL EDUCATION

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Bilingual Education Act'.

"POLICY; APPROPRIATIONS

20 USC 880b. "SEC. 702. (a) Recognizing—

"(1) that there are large numbers of children of limited English-speaking ability;

"(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

"(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

"(4) that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual educational methods and techniques; and

"(5) that, in addition, children of limited English-speaking ability benefit through the fullest utilization of multiple language and cultural resources,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children; and to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the English language.

Appropriation.

"(b)(1) Except as is otherwise provided in this title, for the purpose of carrying out the provisions of this title, there are authorized to be appropriated $135,000,000 for the fiscal year ending June 30, 1974; $135,000,000 for the fiscal year ending June 30, 1975; $140,000,000 for the fiscal year ending June 30, 1976; $150,000,000 for the fiscal year ending June 30, 1977; and $160,000,000 for the fiscal year ending June 30, 1978.

"(2) There are further authorized to be appropriated to carry out the provisions of section 721(b)(3) $6,750,000 for the fiscal year ending June 30, 1974; $7,250,000 for the fiscal year ending June 30, 1975; $7,750,000 for the fiscal year ending June 30, 1976; $8,750,000 for the fiscal year ending June 30, 1977; and $9,750,000 for the fiscal year ending June 30, 1978.

Post, p. 507.

"(3) From the sums appropriated under paragraph (1) for any fiscal year—

"(A) the Commissioner shall reserve $16,000,000 of that part thereof which does not exceed $70,000,000 for training activities carried out under clause (3) of subsection (a) of section 721, and shall reserve for such activities 33⅓ per centum of that part thereof which is in excess of $70,000,000; and

"(B) the Commissioner shall reserve from the amount not reserved pursuant to clause (A) of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732.

Post, p. 510.

"DEFINITIONS; REGULATIONS

20 USC 880b-1.

"SEC. 703. (a) The following definitions shall apply to the terms used in this title:

"(1) The term 'limited English-speaking ability', when used with reference to an individual, means—

"(A) individuals who were not born in the United States or whose native language is a language other than English, and

"(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulations;

and, by reason thereof, have difficulty speaking and understanding instruction in the English language.

"(2) The term 'native language', when used with reference to an individual of limited English-speaking ability, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the low annual income determined pursuant to section 103 of title I of the Elementary and Secondary Education Act of 1965.

Ante, p. 488.

"(4)(A) The term 'program of bilingual education' means a program of instruction, designed for children of limited English-speaking ability in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable—

"(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to progress effectively through the educational system, the native language of the children of limited English-speaking ability, and such instruction is given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system; and

"(ii) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

English-speaking children, enrollment.

"(B) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children whose language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children.

"(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

"(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

Application.

"(E) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this title, the applicant will provide for participation by a committee composed of, and selected by, such parents, and, in the case of secondary schools, representatives of secondary school students to be served.

Definitions.

"(5) The term 'Office' means the Office of Bilingual Education.

"(6) The term 'Director' means the Director of the Office of Bilingual Education.

"(7) The term 'Council' means the National Advisory Council on Bilingual Education.

Model programs.

"(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

"(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English-speaking ability, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"BILINGUAL EDUCATION PROGRAMS

Grants.
20 USC 880b-7.

"SEC. 721. (a) Funds available for grants under this part shall be used for—

"(1) the establishment, operation, and improvement of programs of bilingual education:

"(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

80 Stat. 1191;
Post, p. 576.
20 USC 1201 note.

"(3)(A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

"(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

Application.

"(b)(1) A grant may be made under this section only upon application therefor by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3)(A) of subsection (a) of this section, by eligible applicants as defined in section 723). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and

Post, p. 508.

"(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

"(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

Approval.

"(2) An application for a grant under this part may be approved only if—

"(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English-speaking ability, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefitted by such programs;

"(B) in the case of applications from local educational agencies to carry out programs of bilingual education under clause (1) of subsection (a) of section 721, the Commissioner determines that not less than 15 per centum of the amounts paid to the applicant for the purposes of such programs shall be expended for auxiliary and supplementary training programs in accordance with the provisions of clause (3)(B) of such subsection and section 723; Post, p. 508.

"(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children; and

"(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner.

"(3)(A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this title. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 702 for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies. Ante, p. 503.

"(c) In determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest need for programs assisted under this title.

"INDIAN CHILDREN IN SCHOOLS

20 USC 880b-8. "SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any

such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

Payments.
Ante, p. 503.

"(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

Annual report to Congress and President.

"(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

Assessment of needs of Indian children, submittal to Congress and President.

49 Stat. 1458.

"(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"TRAINING

20 USC 880b-9.
Ante, p. 506.

"SEC. 723. (a)(1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

"(A)(i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

"(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

Fellowships.

"(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English-speaking ability. For each fiscal year after June 30, 1975, and prior to July 1, 1978, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

Report to congressional committees.

Stipends.

"(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistance and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

Ante, p. 506.

"(5) An application for a grant or contract for preservice or inservice training activities described in clause (A)(i)(I) and clause (A)(ii)(I) and in subsection (a)(1)(B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a)(4)(E) of section 703.

Ante, p. 504.
"Eligible applicants."

"(b) For the purposes of this section, the term 'eligible applicants' means—

"(1) institutions of higher education (including junior colleges and community colleges) which apply, after consultation with, or jointly with, one or more local educational agencies;

"(2) local educational agencies; and

"(3) State educational agencies.

"PART B—ADMINISTRATION

"OFFICE OF BILINGUAL EDUCATION

Establishment.
20 USC 880b-10.

"SEC. 731. (a) There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the 'Office') through which the Commissioner shall carry out his functions relating to bilingual education.

"(b)(1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

Report to Congress and President.

"(c) The Commissioner, in consultation with the Council, shall prepare and, not later than November 1 of 1975, and of 1977, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English-speaking ability. Such report shall include—

Contents.

"(1) a national assessment of the educational needs of children and other persons with limited English-speaking ability and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than July 1, 1977, the results of a survey of the number of such children and persons in the States, and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English-speaking ability, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

"(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

"(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

"(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English-speaking ability and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs; and

"(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region.

"NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Establishment.
20 USC 880b-11.
Post, p. 575.
Membership.

"SEC. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English-speaking ability, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least three members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English-speaking ability and the geographic areas in which they reside.

"(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

84 Stat. 172;
86 Stat. 326.
20 USC 1233e.
Duties.

"(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons of limited English-speaking ability. The Council shall prepare and, not later than November 1 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English-speaking ability.

Report to
Congress and
President.
Ante, p. 509.

Personnel
procurement.

"(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

Post, p. 575.

"PART C—SUPPORTIVE SERVICES AND ACTIVITIES

"ADMINISTRATION

20 USC 880b-12.

"SEC. 741. (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

"(1) the Commissioner, through the Office of Bilingual Education; and

"(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act;

86 Stat. 328.
20 USC 1225.

in accordance with regulations.

"(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742.

Infra.

"RESEARCH AND DEMONSTRATION PROJECTS

Bilingual
education
research.

"SEC. 742. (a) The National Institute of Education shall, in accordance with the provisions of section 405 of the General Education Provisions Act, carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs carried out under this title and other programs for persons of limited English-speaking ability.

Competitive
contracts.

"(b) In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods for use in such bilingual education programs, the Director and the Commissioner are authorized to make competitive contracts with public and private educational agencies, institutions, and organizations for such purpose.

"(c) In carrying out their responsibilities under this section, the Commissioner and the Director shall, through competitive contracts with appropriate public and private agencies, institutions, and organizations—

"(1) undertake studies to determine the basic educational needs and language acquisition characteristics of, and the most effective conditions for, educating children of limited English-speaking ability;

"(2) develop and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

"(3) establish and operate a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such bilingual education and related programs.

"(d) In carrying out their responsibilities under this section, the Commissioner and the Director shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

"(e) There is authorized to be appropriated for each fiscal year prior to July 1, 1978, $5,000,000 to carry out the provisions of this section.".

Appropriations.

(2)(A) The amendment made by this subsection shall be effective upon the date of enactment of this Act, except that the provisions of part A of title VII of the Elementary and Secondary Education Act of 1965 (as amended by subsection (a) of this section) shall become effective on July 1, 1975, and the provisions of title VII of the Elementary and Secondary Education Act of 1965 in effect immediately prior to the date of enactment of this Act shall remain in effect through June 30, 1975, to the extent not inconsistent with the amendment made by this section.

Effective date.
20 USC 880b note.
Ante, p. 505.
81 Stat. 816;
84 Stat. 151.
20 USC 880b.

(B) The National Advisory Council on Bilingual Education, for which provision is made in section 732 of such Act, shall be appointed within ninety days after the enactment of this Act.

20 USC 880b-11 note.
Ante, p. 505.

(b) Section 703(a) of title VII of such Act is amended by adding at the end thereof the following:

"(8) The term 'other programs for persons of limited English-speaking ability' when used in sections 731 and 732 means the program authorized by section 708(c) of the Emergency School Aid Act and the programs carried out in coordination with the provisions of this title pursuant to section 122(a)(4)(C) and part J of the Vocational Education Act of 1963, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English-speaking ability pursuant to section 6(b)(4) of the Library Services and Construction Act.".

"Other programs for persons of limited English-speaking ability."
Ante, p. 504.
86 Stat. 360.
20 USC 1607.
Post, p. 607.
Post, p. 578.
Post, p. 609.

STATUTE OF LIMITATIONS

SEC. 106. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by inserting after section 803 the following new section:

79 Stat. 57;
81 Stat. 816;
84 Stat. 152.
20 USC 881.

"STATUTE OF LIMITATIONS ON REFUND OF PAYMENTS

"SEC. 804. No State or local educational agency shall be liable to refund any payment made to such agency under this Act (including title I of this Act) which was subsequently determined to be unauthorized by law, if such payment was made more than five years before such agency received final written notice that such payment was unauthorized.".

20 USC 884.
Ante, p. 488.

DROPOUT PREVENTION PROJECTS

SEC. 107. (a) Section 807(c) of the Elementary and Secondary Education Act of 1965 is amended by inserting before the period at the end thereof the following: ", and each of the five succeeding fiscal

84 Stat. 152.
20 USC 887.

years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV".

Effective date.
20 USC 887 note.

(b) The amendments made by this section shall be effective on and after July 1, 1973.

SCHOOL NUTRITION AND HEALTH SERVICES

84 Stat. 153.
20 USC 887a.

SEC. 108. (a) Section 808(d) of the Elementary and Secondary Education Act of 1965 is amended by inserting before the period at the end thereof the following: ", and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV".

Effective date.
20 USC 887a note.

(b) The amendments made by this section shall be effective on and after July 1, 1973.

CORRECTION EDUCATION SERVICES

84 Stat. 154.
20 USC 887b.

SEC. 109. (a) Section 809 of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of carrying out this section, there is authorized to be appropriated $500,000 for the fiscal year ending June 30, 1974, and for the succeeding fiscal year."

Effective date.
20 USC 887b note.

(b) The amendments made by this section shall be effective on and after July 1, 1974.

OPEN MEETINGS OF EDUCATIONAL AGENCIES

79 Stat. 55;
84 Stat. 153.
20 USC 881.

SEC. 110. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"OPEN MEETINGS OF EDUCATIONAL AGENCIES

20 USC 887e.

"SEC. 812. No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application. The Commissioner is authorized and directed to establish such regulations as necessary to implement this section."

ETHNIC HERITAGE STUDIES CENTERS

86 Stat. 348.
20 USC 900a-5.

SEC. 111. (a)(1) Section 907 of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the fiscal years ending prior to July 1, 1978".

Effective date.
20 USC 900a-5 note.

(2) The amendments made by this subsection shall be effective on and after July 1, 1973.

86 Stat. 347.
20 USC 900a-1.

(b) Section 903 of such Act is amended by—

(1) striking out "elementary and secondary schools and institutions of higher education" in clause (1) of such section, and inserting in lieu thereof "elementary or secondary schools or institutions of higher education";

(2) striking out "elementary and secondary schools and institutions of higher education" in clause (2) of such section and inserting in lieu thereof "elementary or secondary schools or institutions of higher education";

ATTACHMENT 2

(3) inserting the word "or" after clause (1) of such section; and 86 Stat. 347. 20 USC 900a-1.

(4) inserting the word "or" at the end of clause (2) of such section.

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND THE TRANSPORTATION OF STUDENTS

Equal Educational Opportunities Act of 1974.

SHORT TITLE

SEC. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974". 20 USC 1701 note.

PART A—EQUAL EDUCATIONAL OPPORTUNITIES

Subpart 1—Policy and Purpose

DECLARATION OF POLICY

SEC. 202. (a) The Congress declares it to be the policy of the United States that— 20 USC 1701.

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this part to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

FINDINGS

SEC. 203. (a) The Congress finds that— 20 USC 1702.

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amount of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have not established, a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

Dual school systems, elimination. USC prec. title 1.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this title are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

Subpart 2—Unlawful Practices

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED

20 USC 1703.

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with subpart 4 of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

BALANCE NOT REQUIRED

20 USC 1704.

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

20 USC 1705.

SEC. 206. Subject to the other provisions of this part, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

Subpart 3—Enforcement

CIVIL ACTIONS

SEC. 207. An individual denied an equal educational opportunity, as defined by this part may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual. 20 USC 1706.

EFFECT OF CERTAIN POPULATION CHANGES ON CERTAIN ACTIONS

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan. 20 USC 1707.

JURISDICTION OF DISTRICT COURTS

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207. 20 USC 1708.

INTERVENTION BY ATTORNEY GENERAL

SEC. 210. Whenever a civil action is instituted under section 207 by an individual, the Attorney General may intervene in such action upon timely application. 20 USC 1709.

SUITS BY THE ATTORNEY GENERAL

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he— 20 USC 1710.

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of subpart 2 of this part; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

Subpart 4—Remedies

FORMULATING REMEDIES; APPLICABILITY

SEC. 213. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws. 20 USC 1712.

PRIORITY OF REMEDIES

20 USC 1713. SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 215 and 216 or this part.

TRANSPORTATION OF STUDENTS

20 USC 1714. SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

DISTRICT LINES

SEC. 216. In the formulation of remedies under section 213 or 214 of this part the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

20 USC 1715.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 217. Nothing in this part prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this part nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this part, if such plan is voluntarily proposed by the appropriate educational agency.

20 USC 1716.

REOPENING PROCEEDINGS

SEC. 218. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 in effect on the date of the enactment of this part and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

20 USC 1717.

78 Stat. 252.
42 USC 2000d.

LIMITATION ON ORDERS

SEC. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws may, to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable, and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

Court order, termination.
20 USC 1718.

Subpart 5—Definitions

SEC. 221. For the purposes of this part—

20 USC 1720.

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

79 Stat. 55.
20 USC 881.

(b) The term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) The term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Acts of 1964.

78 Stat. 246;
86 Stat. 375.
42 USC 2000c.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

Subpart 6—Miscellaneous Provisions

REPEALER

Repeal.
86 Stat. 361, 362.
20 USC 1608.

SEC. 222. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

SEPARABILITY OF PROVISIONS

20 USC 1721.

SEC. 223. If any provision of this part or of any amendment made by this part, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this part and of the amendments made by this part and the application of such provision to other persons or circumstances shall not be affected thereby.

PART B—OTHER PROVISIONS RELATING TO THE ASSIGNMENT AND TRANSPORTATION OF STUDENTS

PROHIBITION AGAINST ASSIGNMENT OR TRANSPORTATION OF STUDENTS TO OVERCOME RACIAL IMBALANCE

20 USC 1751.

SEC. 251. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

Post, p. 556.

SEC. 252. Part B of the General Education Provisions Act, as amended by title V of this Act, is amended by adding at the end thereof the following new section:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

20 USC 1228.

"SEC. 420. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title I of the Act of September 30, 1950 (P.L. 874, 81st Congress), but not including any portion of such funds as are attributable to children counted under subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act."

Ante, p. 488.

PROVISION RELATING TO COURT APPEALS

20 USC 1752.

SEC. 253. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

PROVISION REQUIRING THAT RULES OF EVIDENCE BE UNIFORM

SEC. 254. The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

20 USC 1753.

APPLICATION OF PROVISO OF SECTION 407(a) OF THE CIVIL RIGHTS ACT OF 1964 TO THE ENTIRE UNITED STATES

SEC. 255. The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

20 USC 1754.
78 Stat. 248.
42 USC 2000c-6.

ADDITIONAL PRIORITY OF REMEDIES

SEC. 256. Notwithstanding any other provision of law, after June 30, 1974 no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

20 USC 1755.
De jure segregation.

REMEDIES WITH RESPECT TO SCHOOL DISTRICT LINES

SEC. 257. In the formulation of remedies under this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

20 USC 1756.

PROHIBITION OF FORCED BUSING DURING SCHOOL YEAR

SEC. 258. (a) The Congress finds that—

20 USC 1757.

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

"Academic school year."

(c) For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Commissioner, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.

REASONABLE TIME FOR DEVELOPING VOLUNTARY PLAN FOR DESEGREGATING SCHOOLS

20 USC 1758.

SEC. 259. Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

ATTACHMENT 3

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

May 25, 1970

MEMORANDUM

TO : School Districts With More Than Five Percent National Origin-Minority Group Children

FROM : J. Stanley Pottinger
Director, Office for Civil Rights

SUBJECT : Identification of Discrimination and Denial of Services on the Basis of National Origin

Title VI of the Civil Rights Act of 1964, and the Departmental Regulation (45 CFR Part 80) promulgated thereunder, require that there be no discrimination on the basis of race, color or national origin in the operation of any federally assisted programs.

Title VI compliance reviews conducted in school districts with large Spanish-surnamed student populations by the Office for Civil Rights have revealed a number of common practices which have the effect of denying equality of educational opportunity to Spanish-surnamed pupils. Similar practices which have the effect of discrimination on the basis of national origin exist in other locations with respect to disadvantaged pupils from other national origin-minority groups, for example, Chinese or Portugese.

The purpose of this memorandum is to clarify D/HEW policy on issues concerning the responsibility of school districts to provide equal educational opportunity to national origin-minority group children deficient in English language skills. The following are some of the major areas of concern that relate to compliance with Title VI:

(1) Where inability to speak and understand the English

language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

(2) School districts must not assign national origin-minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills; nor may school districts deny national origin-minority group children access to college preparatory courses on a basis directly related to the failure of the school system to inculcate English language skills.

(3) Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational dead-end or permanent track.

(4) School districts have the responsibility to adequately notify national origin-minority group parents of school activities which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.

School districts should examine current practices which exist in their districts in order to assess compliance with the matters set forth in this memorandum. A school district which determines that compliance problems currently exist in that district should immediately communicate in writing with the Office for Civil Rights and indicate what steps are being taken to remedy the situation. Where compliance questions arise as to the sufficiency of programs designed to meet the language skill needs of national origin-minority group children already operating in a particular area, full information regarding such programs should be provided. In the area of special language assistance, the scope of the program and the process for identifying need and the extent to which the need is fulfilled should be set forth.

School districts which receive this memorandum will be contacted shortly regarding the availability of technical assistance and will be provided with any additional information that may be needed to assist districts in achieving compliance with the law and equal educational opportunity for all children. Effective as of this date the aforementioned areas of concern will be regarded by regional Office for Civil Rights personnel as a part of their compliance responsibilities.

Attachment 4

LAU ET AL. v. NICHOLS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 72-6520. Argued December 10, 1973—Decided January 21, 1974

The failure of the San Francisco school system to provide English language instruction to approximately 1,800 students of Chinese ancestry who do not speak English, or to provide them with other adequate instructional procedures, denies them a meaningful opportunity to participate in the public educational program and thus violates § 601 of the Civil Rights Act of 1964, which bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving Federal financial assistance," and the implementing regulations of the Department of Health, Education, and Welfare. Pp. 565–569.

483 F. 2d 791, reversed and remanded.

Douglas, J., delivered the opinion of the Court, in which Brennan, Marshall, Powell, and Rehnquist, JJ., joined. Stewart, J., filed an opinion concurring in the result, in which Burger, C. J., and Blackmun, J., joined, *post*, p. 569. White, J., concurred in the result. Blackmun, J., filed an opinion concurring in the result, in which Burger, C. J., joined, *post*, p. 571.

Edward H. Steinman argued the cause for petitioners. With him on the briefs were *Kenneth Hecht* and *David C. Moon*.

Thomas M. O'Connor argued the cause for respondents. With him on the brief were *George E. Krueger* and *Burk E. Delventhal*..

Assistant Attorney General Pottinger argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Bork*, *Deputy Solicitor General Wallace*, *Mark L. Evans*, and *Brian K. Landsberg*.[*]

---

[*] Briefs of *amici curiae* urging reversal were filed by *Stephen J. Pollak*, *Ralph J. Moore, Jr.*, *David Rubin*, and *Peter T. Galiano* for

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The San Francisco, California, school system was integrated in 1971 as a result of a federal court decree, 339 F. Supp. 1315. See *Lee* v. *Johnson*, 404 U. S. 1215. The District Court found that there are 2,856 students of Chinese ancestry in the school system who do not speak English. Of those who have that language deficiency, about 1,000 are given supplemental courses in the English language.[1] About 1,800, however, do not receive that instruction.

This class suit brought by non-English-speaking Chinese students against officials responsible for the operation of the San Francisco Unified School District seeks relief against the unequal educational opportunities, which are alleged to violate, *inter alia*, the Fourteenth Amendment. No specific remedy is urged upon us.

---

the National Education Assn. et al.; by *W. Reece Bader* and *James R. Madison* for the San Francisco Lawyers' Committee for Urban Affairs; by *J. Harold Flannery* for the Center for Law and Education, Harvard University; by *Herbert Teitelbaum* for the Puerto Rican Legal Defense and Education Fund, Inc.; by *Mario G. Obledo, Sanford J. Rosen, Michael Mendelson*, and *Alan Exelrod* for the Mexican American Legal Defense and Educational Fund et al.; by *Samuel Rabinove, Joseph B. Robison, Arnold Forster*, and *Elliot C. Rothenberg* for the American Jewish Committee et al.; by *F. Raymond Marks* for the Childhood and Government Project; by *Martin Glick* for Efrain Tostado et al.; and by the Chinese Consolidated Benevolent Assn. et al.

[1] A report adopted by the Human Rights Commission of San Francisco and submitted to the Court by respondents after oral argument shows that, as of April 1973, there were 3,457 Chinese students in the school system who spoke little or no English. The document further showed 2,136 students enrolled in Chinese special instruction classes, but at least 429 of the enrollees were not Chinese but were included for ethnic balance. Thus, as of April 1973, no more than 1,707 of the 3,457 Chinese students needing special English instruction were receiving it.

Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instructions to this group in Chinese is another. There may be others. Petitioners ask only that the Board of Education be directed to apply its expertise to the problem and rectify the situation.

The District Court denied relief. The Court of Appeals affirmed, holding that there was no violation of the Equal Protection Clause of the Fourteenth Amendment or of § 601 of the Civil Rights Act of 1964, 78 Stat. 252, 42 U. S. C. § 2000d, which excludes from participation in federal financial assistance, recipients of aid which discriminate against racial groups, 483 F. 2d 791. One judge dissented. A hearing en banc was denied, two judges dissenting. *Id.*, at 805.

We granted the petition for certiorari because of the public importance of the question presented, 412 U. S. 938.

The Court of Appeals reasoned that "[e]very student brings to the starting line of his educational career different advantages and disadvantages caused in part by social, economic and cultural background, created and continued completely apart from any contribution by the school system," 483 F. 2d, at 797. Yet in our view the case may not be so easily decided. This is a public school system of California and § 71 of the California Education Code states that "English shall be the basic language of instruction in all schools." That section permits a school district to determine "when and under what circumstances instruction may be given bilingually." That section also states as "the policy of the state" to insure "the mastery of English by all pupils in the schools." And bilingual instruction is authorized "to the extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language."

Moreover, § 8573 of the Education Code provides that no pupil shall receive a diploma of graduation from grade 12 who has not met the standards of proficiency in "English," as well as other prescribed subjects. Moreover, by § 12101 of the Education Code children between the ages of six and 16 years are (with exceptions not material here) "subject to compulsory full-time education." (Supp. 1973.)

Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.

Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.

We do not reach the Equal Protection Clause argument which has been advanced but rely solely on § 601 of the Civil Rights Act of 1964, 42 U. S. C. § 2000d to reverse the Court of Appeals.

That section bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving Federal financial assistance." The school district involved in this litigation receives large amounts of federal financial assistance. The Department of Health, Education, and Welfare (HEW), which has authority to promulgate regulations prohibiting discrimination in federally assisted school systems, 42 U. S. C. § 2000d–1, in 1968 issued one guideline that "[s]chool systems are responsible for assuring that students of a particular race, color, or national origin are not denied the

opportunity to obtain the education generally obtained by other students in the system." 33 Fed. Reg. 4956. In 1970 HEW made the guidelines more specific, requiring school districts that were federally funded "to rectify the language deficiency in order to open" the instruction to students who had "linguistic deficiencies." 35 Fed. Reg. 11595.

By § 602 of the Act HEW is authorized to issue rules, regulations, and orders[2] to make sure that recipients of federal aid under its jurisdiction conduct any federally financed projects consistently with § 601. HEW's regulations, 45 CFR § 80.3 (b)(1), specify that the recipients may not:

> "(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
>
> . . . . .
>
> "(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program."

Discrimination among students on account of race or national origin that is prohibited includes "discrimination . . . in the availability or use of any academic . . . or

---

[2] Section 602 provides:

"Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. . . ." 42 U. S. C. § 2000d–1.

other facilities of the grantee or other recipient." *Id.*, § 80.5 (b).

Discrimination is barred which has that *effect* even though no purposeful design is present: a recipient "may not . . . utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination" or have "the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin." *Id.*, § 80.3 (b)(2).

It seems obvious that the Chinese-speaking minority receives fewer benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by the regulations.[3] In 1970 HEW issued clarifying guidelines, 35 Fed. Reg. 11595, which include the following:

"Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."

"Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational deadend or permanent track."

Respondent school district contractually agreed to "comply with title VI of the Civil Rights Act of 1964 . . . and all requirements imposed by or pursuant to the Regulation" of HEW (45 CFR pt. 80) which are "issued pursuant to that title . . ." and also immediately to "take any measures necessary to effectuate this agreement." The Federal Government has power to fix the terms on which its money allotments to the States shall be disbursed. *Oklahoma* v. *CSC*, 330 U. S. 127, 142-143. Whatever may be the limits of that power, *Steward Machine Co.* v. *Davis*, 301 U. S. 548, 590 *et seq.*, they have not been reached here. Senator Humphrey, during the floor debates on the Civil Rights Act of 1964, said:[4]

"Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination."

We accordingly reverse the judgment of the Court of Appeals and remand the case for the fashioning of appropriate relief.

Reversed and remanded.

MR. JUSTICE WHITE concurs in the result.

MR. JUSTICE STEWART, with whom THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN join, concurring in the result.

It is uncontested that more than 2,800 school children of Chinese ancestry attend school in the San Francisco Unified School District system even though they do not speak, understand, read, or write the English language, and that as to some 1,800 of these pupils the respondent school authorities have taken no significant steps to deal with this language deficiency. The petitioners do not contend, however, that the respondents have affirmatively or intentionally contributed to this inadequacy, but only that they have failed to act in the face of changing social and linguistic patterns. Because of this laissez-faire attitude on the part of the school administrators, it is not entirely clear that § 601 of the Civil Rights Act of 1964, 42 U. S. C. § 2000d, standing alone, would render illegal the expenditure of federal funds on these schools. For that section provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

---

[3] And see Report of the Human Rights Commission of San Francisco, Bilingual Education in the San Francisco Public Schools, Aug. 9, 1973.

[4] 110 Cong. Rec. 6543 (Sen. Humphrey, quoting from President Kennedy's message to Congress, June 19, 1963).

On the other hand, the interpretive guidelines published by the Office for Civil Rights of the Department of Health, Education, and Welfare in 1970, 35 Fed. Reg. 11595, clearly indicate that affirmative efforts to give special training for non-English-speaking pupils are required by Tit. VI as a condition to receipt of federal aid to public schools:

> "Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."[1] 35 Fed. Reg. 11595.

---

[1] These guidelines were issued in further clarification of the Department's position as stated in its regulations issued to implement Tit. VI, 45 CFR pt. 80. The regulations provide in part that no recipient of federal financial assistance administered by HEW may

"Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program; [or]

"Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program."

45 CFR § 80.3 (b)(1)(ii), (iv).

The critical question is, therefore, whether the regulations and guidelines promulgated by HEW go beyond the authority of § 601.[2] Last Term, in *Mourning* v. *Family Publications Service, Inc.*, 411 U. S. 356, 369, we held that the validity of a regulation promulgated under a general authorization provision such as § 602 of Tit. VI[3] "will be sustained so long as it is 'reasonably related to the purposes of the enabling legislation.' *Thorpe* v. *Housing Authority of the City of Durham*, 393 U. S. 268, 280–281 (1969)." I think the guidelines here fairly meet that test. Moreover, in assessing the purposes of remedial legislation we have found that departmental regulations and "consistent administrative construction" are "entitled to great weight." *Trafficante* v. *Metropolitan Life Insurance Co.*, 409 U. S. 205, 210; *Griggs* v. *Duke Power Co.*, 401 U. S. 424, 433–434; *Udall* v. *Tallman*, 380 U. S. 1. The Department has reasonably and consistently interpreted § 601 to require affirmative remedial efforts to give special attention to linguistically deprived children.

For these reasons I concur in the result reached by the Court.

MR. JUSTICE BLACKMUN, with whom THE CHIEF JUSTICE joins, concurring in the result.

I join MR. JUSTICE STEWART's opinion and thus I, too, concur in the result. Against the possibility that the Court's judgment may be interpreted too broadly, I

---

[2] The respondents do not contest the standing of the petitioners to sue as beneficiaries of the federal funding contract between the Department of Health, Education, and Welfare and the San Francisco Unified School District.

[3] Section 602, 42 U. S. C. § 2000d–1, provides in pertinent part:

"Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way stress the fact that the children with whom we are concerned here number about 1,800. This is a very substantial group that is being deprived of any meaningful schooling because they cannot understand the language of the classroom. We may only guess as to why they have had no exposure to English in their preschool years. Earlier generations of American ethnic groups have overcome the language barrier by earnest parental endeavor or by the hard fact of being pushed out of the family or community nest and into the realities of broader experience.

I merely wish to make plain that when, in another case, we are concerned with a very few youngsters, or with just a single child who speaks only German or Polish or Spanish or any language other than English, I would not regard today's decision, or the separate concurrence, as conclusive upon the issue whether the statute and the guideline require the funded school district to provide special instruction. For me, numbers are at the heart of this case and my concurrence is to be understood accordingly.

---

of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. . . ."

The United States as *amicus curiae* asserts in its brief, and the respondents appear to concede, that the guidelines were issued pursuant to § 602.

APPENDIX C

STATE POLICY ON BILINGUAL EDUCATION

> The General Court finds that there are large numbers of children in the commonwealth who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The General Court believes that a compensatory program of transitional bilingual education can meet the needs of these children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of the commonwealth to insure equal educational opportunity to every child, and in recognition of the needs of children of limited English-speaking ability, it is the purpose of this act to provide for the establishment of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to help local school districts to meet the extra costs of such programs.[1]

With this statement, Massachusetts launched mandatory bilingual education to be followed by similar laws in Texas, Illinois, and New Jersey,[2] requiring instruction in the native language and culture of children with limited English speaking ability to equalize their educational opportunity.[3] The pace was set in the Massachusetts law, which required cities, towns, or school districts with enrollments of 20 or more children of limited English speaking ability in any language classification to establish 3-year, "transitional" programs to compensate for the inability of language minority children to compete effectively in the standard educational program.[3] These programs were intended as remedial measures for language minority students, not as means for changing the basic orientation of school curricula. In fact, in all the statutes, school districts are permitted to locate such programs outside public school facilities.[4]

---

[1] Ann. Laws. Mass. ch 71A, §1 (ed. note) (Supp. 1973).

[2] This was written before the New Jersey statute was passed, and, thus, does not analyze provisions of that law. N.J. Stat. Ann. tit. 18A; § 35-15, et seq. N.J. Laws of 1974, ch. 197.

[3] With minor wording changes this same legislative finding and declaration can be found in the statutes of Texas and Illinois at Tex. Codes Ann., Education Code §21.451 (Vernon Supp. 1974-75); and Ill. Ann. Stat. ch 122, §14 C-1 (Smith-Hurd Supp. 1974), respectively.

In addition to the 3 year time frame,[5] the laws share other common features. All mandate that all school districts conduct an annual survey to determine the numbers of language minority children in the district;[6] that such programs must be provided where there are 20 or more children of any given language group;[7] that parents must be notified within 10 days of their children's placement in such programs;[8] and that language minority children be mixed with English speaking children in such courses as art, music, and physical education, which do not require proficiency in English.[9]

---

[3] Ann. Laws Mass. ch 71A, §2 (Supp. 1973).

[4] Ann. Laws Mass. ch 71A, §5 (Supp. 1973); Ill. Ann. Stat. ch. 122, §14C-6 (Smith-Hurd Supp. 1974); Tex. Codes Ann., Education Code §21.456 (Vernon Supp. 1974-75).

[5] Tex. Codes Ann., Education Code §21.455(b) and (c) (Vernon Supp. 1974-75); Ill. Ann. Stat. ch 122, §14C-3 (Smith-Hurd Supp. 1974).

[6] Ann. Laws Mass. ch 71A, §2 (Supp. 1973); Ill. Ann. Stat. ch 122, §14C-3(a) (Smith-Hurd Supp. 1974); Tex. Codes Ann., Education Code §21.453(a) (Vernon Supp. 1974-75).

[7] Ann. Laws Mass. ch 71A, §2 (Supp. 1973); Ill. Ann. Stat. ch 122, §14C-3 (Smith-Hurd Supp. 1974); Tex. Codes Ann., Education Code §21.453(b) (Vernon Supp. 1974-75).

[8] Ann. Laws Mass. ch 71A §3 (Supp. 1973); Ill. Ann. Stat. ch 122, §14C-4 (Smith-Hurd Supp. 1974); Tex. Codes Ann., Education Code §21.455(d) (Vernon Supp. 1974-75).

[9] Ann. Laws Mass. ch 71A §5 (Supp. 1973); Ill. Ann. Stat. ch 122, §14C-7 (Smith-Hurd Supp. 1974); Tex. Codes Ann., Education Code §21.454(b) (Vernon Supp. 1974-75).

The laws also differ in several important ways. Massachusetts and Illinois provide that only reading and writing in the native language shall be taught, while oral comprehension, speaking, reading, and writing shall be taught for English.[10] The Texas law specifies that all four skills shall be developed for both the native language and English, thereby giving the native language the same status as English and enhancing attitudes and motivation in the learning of English.[11]

A potentially damaging omission in the Texas law is a failure to recognize a right of parents to choose to withdraw their children from a mandatory bilingual program at any time. By including such a provision in the Illinois and Massachusetts laws, those States ensure that students are not being pulled out of regular classrooms against the wishes of their parents.[12] The provision also safeguards against forced attendance of language minority children in bilingual programs that are ineffective or harmful in any way.

---

[10] Ann. Laws Mass. ch 71A §1 (Supp. 1973); Ill. Ann. Stat. ch 122, §14C-2(f)(2) (Smith-Hurd Supp. 1974).

[11] Tex. Codes Ann., Education Code §21.454(a)(2) (Vernon Supp. 1974-75).

[12] Ann. Laws Mass. ch 71A §3 (Supp. 1973); Ill. Ann. Stat. ch 122, §14C-4 (Smith-Hurd Supp. 1974).

Finally, the different States provide varying amounts of external support to programs. In Texas, for example, the State provides all school districts operating approved bilingual education programs special allowances for texts and support material [13] and establishes Bilingual Education Training Institutes [14] to be conducted by the Central Education Agency. Two States -- Massachusetts and Illinois -- set up departments of bilingual education in their respective State education agencies.[15]

---

[13] Tex. Codes Ann., Education Code §21.460(a) (Vernon Supp. 1974-75).

[14] Tex. Codes Ann., Education Code §11.17 (Vernon Supp. 1974-75).

[15] Ann. Laws Mass. ch 69 §35 (Supp. 1973); Ill. Ann. Stat. ch 122 , §2-3.39 (Smith-Hurd Supp. 1974).

MASSACHUSETTS BILINGUAL EDUCATION ACT

CHAPTER 71A

Transitional Bilingual Education

SEC.

1. Definitions.
2. Establishment of programs. Participation. Examination. Transfer. Re-enrollment.
3. Notice to parents, form and contents. Parents' right to withdraw child, etc.
4. Enrollment of non-resident children. Joint Programs among districts. Reimbursement by Commonwealth for transportation costs.
5. Language of instruction in certain courses. Participation with English-speaking children. Extra-curricular activities. Location of programs. Grouping of children. Student-teacher ratio.
6. Teachers of bilingual education. Compensation. Qualifications. Certification. Exemption of committee from certification requirements, etc.
7. Pre-school and summer school programs.
8. Costs of programs. Reimbursement, etc.
9. Authority of department. Rules and regulations.

§ 1. Definitions.

The following words, as used in this chapter shall, unless the context requires otherwise, have the following meanings:—

"Department", the department of education.

"School committee", the school committee of a city, town or regional school district.

"Children of limited English-speaking ability", (1) children who were not born in the United States whose native tongue is a language other than English and who are incapable of performing ordinary classwork in English; and (2) children who were born in the United States of non-English speaking parents and who are incapable of performing ordinary classwork in English.

"Teacher of transitional bilingual education", a teacher with a speaking and reading ability in a language other than English in which bilingual education is offered and with communicative skills in English.

"Program in transitional bilingual education", a full-time program of instruction (1) in all those courses or subjects which a child is required by law to receive and which are required by the child's school committee which shall be given in the native language of the children of limited English-speaking ability who are enrolled in the program and also in English, (2) in the reading and writing of the native language of the children of limited English-speaking ability who are enrolled in the program and in the oral comprehension, speaking, reading and writing of English, and (3) in the history and culture of the country, territory or geographic area which is the native land of the parents of children of limited English-speaking ability who are enrolled in the program and in the history and culture of the United States. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

Editorial Note—

Section 1, Acts 1971, Ch. 1005, provides as follows:

SECTION 1. *Declaration of Policy.*—The General Court finds that there are large numbers of children in the commonwealth who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The General Court believes that a compensatory program of transitional bilingual education can meet the needs of these children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of the commonwealth to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-speaking ability, it is the purpose of this act to provide for the establishment of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to help local school districts to meet the extra costs of such programs.

§ 2. Establishment of Programs; Participation; Examination; Transfer; Re-enrollment.

Each school committee shall ascertain, not later than the first day of March, under regulations prescribed by the department, the number of children of limited English-speaking ability within their school system, and shall classify them according to the language of which they possess a primary speaking ability.

When, at the beginning of any school year, there are within a city, town or school district not including children who are enrolled in existing private school systems, twenty or more children of limited English-speaking ability in any such language classification, the school committee shall establish, for each classification, a program in transitional bilingual education for the children therein; provided, however, that a school committee may establish a program in transitional bilingual education with respect to any classification with less than twenty children therein.

Every school-age child of limited English-speaking ability not enrolled in existing private school systems shall be enrolled and participate in the program in transitional bilingual education established for the classification to which he belongs by the city, town or school district in which he resides for a period of three years or until such time as he achieves a level of English language skills which will enable him to perform successfully in classes in which instruction is given only in English, whichever shall first occur.

A child of limited English-speaking ability enrolled in a program in transitional bilingual education may, in the discretion of the school committee and subject to the approval of the child's parent or legal guardian, continue in that program for a period longer than three years.

An examination in the oral comprehension, speaking, reading and writing of English, as prescribed by the department, shall be administered annually to all children of limited English-speaking ability enrolled and participating in a program in transitional bilingual education. No school committee shall transfer a child of limited English-speaking ability out of a program in transitional bilingual education prior to his third year of enrollment therein unless the parents of the child approve the transfer in writing, and unless the child has received a score on said examination which, in the determination of the department, reflects a level of English language skills appropriate to his or her grade level.

If later evidence suggests that a child so transferred is still handicapped by an inadequate command of English, he may be reenrolled in the program for a length of time equal to that which remained at the time he was transferred. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

§ 3. Notice to Parents, Form and Contents; Parents' Right to Withdraw Child, etc.

No later than ten days after the enrollment of any child in a program in transitional bilingual education the school committee of the city, town or the school district in which the child resides shall notify by mail the parents or legal guardian of the child of the fact that their child has been enrolled in a program in transitional bilingual education. The notice shall contain a simple, non-technical description of the purposes, method and content of the program in which the child is enrolled and shall inform the parents that they have the right to visit transitional bilingual education classes in which their child is enrolled and to come to the school for a conference to explain the nature of transitional bilingual education. Said notice shall further inform the parents that they have the absolute right, if they so wish, to withdraw their child from a program in transitional bilingual education in the manner as hereinafter provided.

The notice shall be in writing in English and in the language of which the child of the parents so notified possesses a primary speaking ability.

Any parent whose child has been enrolled in a program in transitional bilingual education shall have the absolute right, either at the time of the original notification of enrollment or at the close of any semester thereafter, to withdraw his child from said program by written notice to the school authorities of the school in which his child is enrolled or to the school committee of the city, town or the school district in which his child resides. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

§ 4. Enrollment of Non-Resident Children; Joint Programs among Districts; Reimbursement by Commonwealth for Transportation Costs.

A school committee may allow a non-resident child of limited English-speaking ability to enroll in or attend its program in transitional bilingual education and the tuition for such a child shall be paid by the city, town, or the district in which he resides.

Any city, town or school district may join with any other city, town, school district or districts to provide the programs in transitional bilingual education required or permitted by this chapter.

The commonwealth, under section eighteen A of chapter fifty-eight, shall reimburse any city, town or district for one-half of the cost of providing transportation for children attending a program in transitional bilingual education outside the city, town or district in which they reside. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

§ 5. Language of Instruction in Certain Courses; Participation with English-Speaking Children; Extra-Curricular Activities; Location of Programs; Grouping of Children; Student-Teacher Ratio.

Instruction in courses of subjects included in a program of transitional bilingual education which are not mandatory may be given in a language other than English. In those courses or subjects in which verbalization is not essential to an understanding of the subject matter, including but not necessarily limited to art, music and physical education, children of limited English-speaking ability shall participate fully with their English-speaking contemporaries in the regular public school classes provided for said subjects. Each school committee of every city, town or school district shall ensure to children enrolled in a program in transitional bilingual education practical and meaningful opportunity to participate fully in the extracurricular activities of the regular public schools in the city, town or district. Programs in transitional bilingual education shall, whenever feasible, be located in the regular public schools of the city, town or the district rather than separate facilities.

Children enrolled in a program of transitional bilingual education whenever possible shall be placed in classes with children of approximately the same age and level of educational attainment. If children of different age groups or educational levels are combined, the school committee so combining shall ensure that the instruction given each child is appropriate to his or her level of educational attainment and the city, town or the school districts shall keep adequate records of the educational level and progress of each child enrolled in a program. The maximum student-teacher ratio shall be set by the department and shall reflect the special educational needs of children enrolled in programs in transitional bilingual education. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

§ 6. Teachers of Bilingual Education; Compensation; Qualifications; Certification; Exemption of Committee from Certification Requirements, etc.

The board of education, hereinafter called the board, shall grant certificates to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. The requirements of section thirty-eight G of chapter seventy-one shall not apply to the certification of teachers of transitional bilingual education. Teachers of transitional bilingual education, including those serving under exemptions as provided in this section, shall be compensated by local school committees not less than a step on the regular salary schedule applicable to permanent teachers certified under said section thirty-eight G.

The board shall grant certificates to teachers of transitional bilingual education who present the board with satisfactory evidence that they (1) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (2) are in good health, provided that no applicant shall be disqualified because of blindness or defective hearing; (3) are of sound moral character; (4) possess a bachelor's degree or an earned higher academic degree or are graduates of a normal school approved by the board; (5) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the board; and (6) are legally present in the United States and possess legal authorization for employment.

For the purpose of certifying teachers of transitional bilingual education the board may approve programs at colleges or universities devoted to the preparation of such teachers. The institution shall furnish the board with a student's transcript and shall certify to the board that the student has completed the approved program and is recommended for a teaching certificate.

No person shall be eligible for employment by a school committee as a teacher of transitional bilingual education unless he has been granted a certificate by the board; provided, however, that a school committee may prescribe such additional qualifications, approved by the board. Any school committee may upon its request be exempted from the certification requirements of this section for any school year in which compliance therewith would in the opinion of the department constitute a hardship in the securing of teachers of transitional bilingual education in the city, town or regional school district. Exemptions granted under this section shall be subject to annual renewal by the department.

A teacher of transitional bilingual education serving under an exemption as provided in this section shall be granted a certificate if he achieves the requisite qualifications therefor. Two years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring the status of serving at the discretion of the school committee as provided in section forty-one of chapter seventy-one, and said two years shall be deemed to immediately precede, and be consecutive with, the year in which a teacher becomes certified. In requesting an exemption under this section a school committee shall give preference to persons who have been certified as teachers in their country or place of national origin.

All holders of certificates and legal exemptions under the provisions of section thirty-eight G of chapter seventy-one who provide the board with satisfactory evidence that they possess a speaking and reading ability in a language other than English may be certified under this section as a teacher of transitional bilingual education.

Nothing in this chapter shall be deemed to prohibit a school committee from employing to teach in a program in transitional bilingual education a teacher certified under section thirty-eight G of chapter seventy-one, so long as such employment is approved by the department. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

§ 7. Pre-School and Summer School Programs.

A school committee may establish on a full or part-time basis pre-school or summer school programs in transitional bilingual education for children of limited English-speaking ability or join with the other cities, towns, or school districts in establishing such pre-school or summer programs. Pre-school or summer programs in transitional bilingual education shall not substitute for programs in transitional bilingual education required to be provided during the regular school year. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

§ 8. Costs of Programs; Reimbursement, etc.

The costs of the programs in transitional bilingual education required or permitted under this chapter, actually rendered or furnished, shall, for the amount by which such costs exceed the average per pupil expenditure of the city, town or the school district for the education of children of comparable age, be reimbursed by the commonwealth to the city, town or regional school districts as provided in section eighteen A of chapter fifty-eight.

Reimbursement shall be made upon certification by the department that programs in transitional bilingual education have been carried out in accordance with the requirements of this chapter, the department's own regulations, and approved plans submitted earlier by city, town or the school districts, and shall not exceed one and one-half million dollars for the first year, two and one-half million dollars per year for the second and third years, and four million dollars per year for the fourth and subsequent years of programs in transitional bilingual education. In the event that amounts certified by the department for reimbursement under this section exceed the available state funds therefor, reimbursement of approved programs shall be made based on the ratio of the maximum available state funds to the total funds expended by all of the school committees in the commonwealth.

Nothing herein shall be interpreted to authorize cities, towns or school districts to reduce expenditures from local and federal sources, including monies allocated under the federal Elementary and Secondary Education Act, for transitional bilingual education programs.

The costs of programs in transitional bilingual education, other than those actually reimbursed under this chapter, shall be "reimbursable expenditures" within the meaning of chapter seventy, and shall be reimbursed under said chapter. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

§ 9. Authority of Department; Rules and Regulations.

In addition to the powers and duties prescribed in previous sections of this chapter, the department shall exercise its authority and promulgate rules and regulations to achieve the full implementation of all provisions of this chapter. A copy of the rules and regulations issued by the department shall be sent to all cities, towns and school districts participating in transitional bilingual education. (Added by 1971, 1005, § 2, approved Nov. 4, 1971, effective 90 days thereafter.)

[Clause Second is amended to read as follows:]

Second, The institution is organized under the laws of the commonwealth as an educational institution, and shall have operated as such an institution for a period of not less than one year immediately prior to the filing of the petition for such privilege. The general character of the institution, its professional outlook, and the character and quality of its leadership and personnel shall be determining factors in the approval of the institution. (Amended by 1972, 159, § 1, approved April 13, 1972, effective 90 days thereafter.)

[No change through clause Twelfth.]

[Clause Thirteenth is amended to read as follows:]

Thirteenth, The institution submits evidence of sound financial structure and operation over a period of at least two years. (Amended by 1972, 159, § 2, approved April 13, 1972, effective 90 days thereafter.)

Editorial Note—

The 1972 amendment eliminated, from clause Second and from clause Thirteenth, provisions which would allow approval only of non-profit institutions.

§ 31B. Transfer of Student Records when Educational Institution Ceases to Exist.

Any educational institution with power to grant degrees in the commonwealth which ceases to exist shall transfer all of its student records to the board of higher education. (Added by 1973, 305, approved May 22, 1973, effective 90 days thereafter.)

§ 31C. Notification of Accepted Applicant as to Institution's Accreditation.

Any college, university, community college, junior college and other school of higher education, whether public or private, shall, upon accepting any applicant for admission to such institution, notify said applicant in writing whether or not said institution has been accredited by a recognized regional or professional accrediting agency. (Added by 1973, 564, approved Aug. 2, 1973, effective 90 days thereafter.)

INSTRUCTION OF VISUALLY HANDICAPPED AND BLIND CHILDREN

§§ 32 to 34. [Repealed by Acts 1972, Chapter 766, § 8, approved July 17, 1972; by § 23 it takes effect Sept. 1, 1974.]

BUREAU OF TRANSITIONAL EDUCATION

§ 35. Bureau of Transitional Bilingual Education Established; Project Director, Appointment, Qualifications, etc.; Quarterly Report; Duties of Bureau.

There shall be established within the department, subject to appropriation, a bureau of transitional bilingual education which shall be headed by a project director. The project director shall be appointed by the board of education upon the recommendation of the commissioner, and said project director shall have the minimum qualifications of a bachelor degree in either business administration, liberal arts, or science, and shall have at least two years of documented administrative or teaching experience. The project director shall file a quarterly report with the board of education, the clerk of the house of representatives and the clerk of the senate.

The bureau for transitional bilingual education shall be charged with the following duties: (1) to assist the department in the administration and enforcement of the provisions of chapter seventy-one A and in the formulation of the regulations provided for in said chapter; (2) to study, review, and evaluate all available resources and programs that, in whole or in part, are or could be directed toward meeting the language capability needs of children and adults of limited English-speaking ability resident in the commonwealth; (3) to compile information about the theory and practice of transitional bilingual education in the commonwealth and elsewhere, to encourage experimentation and innovation in the field of transitional bilingual education, and to make an annual report to the general court and the governor; (4) to provide for the maximum practicable involvement of parents of children of limited English-speaking ability in the planning, development, and evaluation of transitional bilingual education programs in the districts serving their children, and to provide for the maximum practicable involvement of parents of children of limited English-speaking ability, teachers and teachers' aides of transitional bilingual education, community coordinators, representatives of community groups, educators and laymen knowledgeable in the field of transitional bilingual education in the formulation of policy and procedures relating to the administration of chapter seventy-one A by the commonwealth; (5) to consult with other public departments and agencies, including but not limited to the department of community affairs, the department of public welfare, the division of employment security, and the Massachusetts commission against discrimination, in connection with the administration of said chapter; (6) to make recommendations to the department in the areas of pre-service and in-service training for teachers of transitional bilingual education programs, curriculum development, testing and testing mechanisms, and the development of materials for transitional bilingual education courses; and (7) to undertake any further activities which may assist the department in the full implementation of said chapter. (Added by 1971, 1005, § 4, approved Nov. 4, 1971, effective 90 days thereafter.)

SUBCHAPTER L. BILINGUAL EDUCATION [NEW]

Cross References
Bilingual education,
Textbooks, see § 12.04.
Training institutes, see § 11.17.
Language of instruction generally, see § 21.109.

§ 21.451. State Policy

The legislature finds that there are large numbers of children in the state who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The legislature believes that a compensatory program of bilingual education can meet the needs of these children and facilitate their integration into the regular school curriculum. Therefore, pursuant to the policy of the state to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-speaking ability, it is the purpose of this subchapter to provide for the establishment of bilingual education programs in the public schools and to provide supplemental financial assistance to help local school districts meet the extra costs of the programs.

Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

§ 21.452. Definitions

In this subchapter the following words have the indicated meanings:

(1) "Agency" means the Central Education Agency.

(2) "Board" means the governing board of a school district.

(3) "Children of limited English-speaking ability" means children whose native tongue is a language other than English and who have difficulty performing ordinary classwork in English.

Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

§ 21.453. Establishment of Bilingual Programs

(a) The governing board of each school district shall determine not later than the first day of March, under regulations prescribed by the State Board of Education, the number of school-age children of limited English-speaking ability within the district and shall classify them according to the language in which they possess a primary speaking ability.

(b) Beginning with the 1974-75 scholastic year, each school district which has an enrollment of 20 or more children of limited English-speaking ability in any language classification in the same grade level during the preceding scholastic year, and which does not have a program of bilingual instruction which accomplishes the state policy set out in Section 21.451 of this Act, shall institute a program of bilingual instruction for the children in each language classification commencing in the first grade, and shall increase the program by one grade each year until bilingual instruction is offered in each grade up to the sixth. The board may establish a program with respect to a language classification with less than 20 children.

Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973

§ 21.454. Program Content; Method of Instruction

(a) The bilingual education program established by a school district shall be a full-time program of instruction (1) in all subjects required by law or by the school district, which shall be given in the native language of the children of limited English-speaking ability who are enrolled in the program, and in the English language; (2) in the comprehension, speaking, reading, and writing of the native language of the children of limited English-speaking ability who are enrolled in the program, and in the comprehension, speaking, reading, and writing of the English language; and (3) in the history and culture associated with the native language of the children of limited English-speaking ability who are enrolled in the program, and in the history and culture of the United States.

(b) In predominantly nonverbal subjects, such as art, music, and physical education, children of limited English-speaking ability shall participate fully with their English-speaking contemporaries in regular classes provided in the subjects.

(c) Elective courses included in the curriculum may be taught in a language other than English.

(d) Each school district shall insure to children enrolled in the program a meaningful opportunity to participate fully with other children in all extracurricular activities.

Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

§ 21.455. Enrollment of Children in Program

(a) Every school-age child of limited English-speaking ability residing within a school district required to provide a bilingual program for his classification shall be enrolled in the program for a period of three years or until he achieves a level of English language proficiency which will enable him to perform successfully in classes in which instruction is given only in English, whichever first occurs.

(b) A child of limited English-speaking ability enrolled in a program of bilingual education may continue in that program for a period longer than three years with the approval of the school district and the child's parents or legal guardian.

(c) No school district may transfer a child of limited English-speaking ability out of a program in bilingual education prior to his third year of enrollment in the program unless the parents of the child approve the transfer in writing, and unless the child has received a score on an examination which, in the determination of the agency, reflects a level of English language skills appropriate to his or her grade level. If later evidence suggests that a child who has been transferred is still handicapped by an inadequate command of English, he may be re-enrolled in the program for a length of time equal to that which remained at the time he was transferred.

(d) No later than 10 days after the enrollment of a child in a program in bilingual education the school district shall notify the parents or legal guardian of the child that the child has been enrolled in the program. The notice shall be in writing in English, and in the language of which the child of the parents possesses a primary speaking ability.

Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

§ 21.456. Facilities; Classes

(a) Programs in bilingual education, whenever possible, shall be located in the regular public schools of the district rather than in separate facilities.

(b) Children enrolled in the program, whenever possible, shall be placed in classes with other children of approximately the same age and level of educational attainment. If children of different age groups or educational levels are combined, the school district shall insure that the instruction given each child is appropriate to his or her level of educational attainment, and the district shall keep adequate records of the educational level and progress of each child enrolled in the program.

(c) The maximum student-teacher ratio shall be set by the agency and shall reflect the special educational needs of children enrolled in programs of bilingual education.
Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

§ 21.457. Cooperation Among Districts

(a) A school district may join with any other district or districts to provide the programs in bilingual education required or permitted by this subchapter. The availability of the programs shall be publicized throughout the affected districts.

(b) A school district may allow a nonresident child of limited English-speaking ability to enroll in or attend its program in bilingual education, and the tuition for the child shall be paid by the district in which the child resides.
Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

§ 21.458. Preschool and Summer School Programs

A school district may establish on a full- or part-time basis preschool or summer school programs in bilingual education for children of limited English-speaking ability and may join with other districts in establishing the programs. The preschool or summer programs shall not be a substitute for programs required to be provided during the regular school year.
Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

§ 21.459. Bilingual Education Teachers

(a) The State Board of Education shall promulgate rules and regulations governing the issuance of teaching certificates with bilingual education endorsements to teachers who possess a speaking and reading ability in a language other than English in which bilingual education programs are offered and who meet the general requirements set out in Chapter 13 of this code.[1]

(b) The minimum monthly base pay and increments for teaching experience for a bilingual education teacher are the same as for a classroom teacher with an equivalent degree under the Texas State Public Education Compensation Plan. The minimum annual salary for a bilingual education teacher is the monthly base salary, plus increments, multiplied by 10, 11, or 12, as applicable.
Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

[1] Section 13.01 et seq.

Cross References

Bilingual education training institutes, see § 11.17.

§ 21.460. Allotments for Operational Expenses and Transportation

(a) To each school district operating an approved bilingual education program there shall be allotted a special allowance in an amount to be determined by the agency for pupil evaluation, books, instructional media, and other supplies required for quality instruction.

(b) The cost of transporting bilingual education students from one campus to another within a district or from a sending district to an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency shall be reimbursed based on the number or actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the Central Education Agency.

(c) The Foundation School Fund Budget Committee shall consider all amounts required for the operation of bilingual education programs in estimating the funds needed for purposes of the Foundation School Program.

(d) The cost of funding this Act shall, for fiscal years 1974 and 1975, be maintained at the level contained in House Bill 139, 63rd Legislature, Regular Session, 1973.
Added by Acts 1973, 63rd Leg., p. 860, ch. 392, § 1, eff. Aug. 27, 1973.

SUBCHAPTER M. PROTECTION OF BUILDINGS AND GROUNDS [NEW]

Application of Act

Section 2 of Acts 1973, 63rd Leg., p. 1639, ch. 596, adding this Subchapter, provides: "Nothing in this Act shall apply to school districts in counties with a population of less than 1,300,000."

Cross References

Disruptive activities on campus or property of educational institutions, penalty, see § 4.30.

Higher education,

Maintaining campus order during periods of disruption, see § 51.231 et seq.

Protection of buildings and grounds, see § 51.201 et seq.

§ 21.481. Applicability of Criminal Laws

All the general and criminal laws of the state are declared to be in full force and effect within the areas under the control and jurisdiction of the board of trustees of any school district in this state.
Added by Acts 1973, 63rd Leg., p. 1637, ch. 596, § 1, eff. Aug. 27, 1973.

Cross References

Higher education, parallel provisions, see § 51.201.

§ 21.482. Rules and Regulations; Penalty

(a) The board of trustees of any school district may promulgate rules and regulations for the safety and welfare of students, employees, and property, and other rules and regulations it may deem necessary to carry out the provisions of this subchapter and the governance of the school, providing for the operation and parking of vehicles on the grounds, streets, drives, alleys, and any other school property under its control, including but not limited to the following:

(1) limiting the rate of speed;

(2) assigning parking spaces and designating parking areas and their use and assessing a charge for parking;

(3) prohibiting parking as it deems necessary;

(4) removing vehicles parked in violation of board rules and regulations or law at the expense of the violator;

(5) instituting a system of registration for vehicle identification, including a reasonable charge.

(b) A person who violates any provision of this subchapter or any rule or regulation promulgated under the authority of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not more than $200.
Added by Acts 1973, 63rd Leg., p. 1637, ch. 596, § 1, eff. Aug. 27, 1973.

Cross References

Higher education, parallel provisions, see § 51.202.

20. Evidence

Court reviewing decision of State Board of Education that district superintendent's employment contract was valid and binding had duty to determine if order of the board was reasonably supported by substantial evidence and not whether it was supported by a preponderance of the evidence and it was not the function of the court to determine whether or not it would have reached the same fact conclusion as that reached by the Board. Board of Trustees of Crystal City Independent School Dist. v. Briggs (Civ.App.1972) 486 S.W.2d 829, ref. n. r. e.

Findings that school district, which breached its contract of employment with superintendent, had funds available to pay salary due superintendent under the contract upon the date of execution of the contract, at the time superintendent filed his cross action to recover his salary, and at the time the court entered judgment, were supported by evidence of probative character. Id.

Substantial evidence supported order of state board of education that 73.7 acres be detached from the Wylie school district and annexed to the Abilene school district. Wylie Independent School Dist. v. Central Ed. Agency (Civ.App.1972) 488 S.W.2d 166, ref. n. r. e.

On appeal from decision of the state board of education, the trial court must determine whether there was substantial evidence in existence at the time of the administrative ruling to justify the board's decision. Id.

On appeal to district court from decision of the state board of education that land be detached from one school district and annexed to another, the only material evidence before the district court was the evidence presented to that court upon appeal from the administrative agency and the court was not limited to the consideration of evidence presented before the state commissioner of education. Id.

23. Damages

Where at the time school district filed its suit to set aside decision of Commissioner of Education, affirmed by Board of Education, that superintendent had valid and binding contract of employment, neither the Commissioner nor the board had made a determination of the availability of funds or of the amount of funds, if any, superintendent was entitled to because of the district's breach of his contract, it was incumbent upon superintendent to file cross action if he were to recover the money due under the contract with district. Board of Trustees of Crystal City Independent School Dist. v. Briggs (Civ.App.1972) 486 S.W.2d 829, ref. n. r. e.

Where school superintendent, in suit by school district to set aside decision of Commissioner of Education, affirmed by State Board of Education, filed cross action to recover money due under his contract with district, the cross action was not governed by the substantial evidence rule; being a common-law action for damages flowing from breach of contract it was his burden to establish, by a preponderance of the evidence, the facts necessary to support his recovery. Id.

Review of school district's contention on appeal from award of damages to superintendent for breach of contract of employment that superintendent was not entitled to damages because of his own breach in refusing to accept reassignment would be treated under the usual rules of appellate procedure, and not under the substantial evidence rule. Id.

§ 11.17. Bilingual Education Training Institutes

Text as added by Acts 1973, 63rd Leg., p. 863, ch. 392, § 2

(a) The Central Education Agency shall conduct bilingual education training institutes.

(b) The agency shall make rules and regulations governing the conduct of and participation in the institutes.

(c) Professional and paraprofessional public school personnel who participate in the bilingual education training institutes shall be reimbursed for expenses incurred as a result of their participation in accordance with rules and regulations adopted by the agency.

Added by Acts 1973, 63rd Leg., p. 863, ch. 392, § 2, eff. Aug. 27, 1973.

For text as added by Acts 1973, 63rd Leg., p. 1760, ch. 642, § 1, see section 11.17, post.

Cross References

Bilingual education,
  Generally, see § 21.451 et seq.
Teachers, see § 21.459.
Textbooks, see § 12.04.

§ 11.17. Advisory Council on Early Childhood Education

Text as added by Acts 1973, 63rd Leg., p. 1760, ch. 642, § 1

(a) The Advisory Council on Early Childhood Education is created and shall assist the State Board of Education in formulating minimum

(e) Textbooks for the blind and visually handicapped and teacher copies requisitioned and purchased by the board pursuant to contract signed by the chairman thereof and the costs of administration thereof shall be paid out of the textbook fund of this state as are textbooks for pupils of normal vision.

(f) Textbooks for the blind and visually handicapped may be obtained and distributed by the Central Education Agency pursuant to rules and regulations adopted by the State Board of Education as it may act on recommendations of the State Textbook Committee and commissioner of education.

(g) All textbooks acquired by the provisions of this section shall be the property of the State of Texas, to be controlled, distributed, and disposed of pursuant to board regulations.

Amended by Acts 1973, 63rd Leg., p. 1189, ch. 436, § 1, eff. June 14, 1973.

[1] 20 U.S.C.A. §§ 101, 102.

1973 Amendment. In subsec. (a), added to second sentence, "for use by students enrolled in public or private non-profit schools" and added third sentence.

§ 12.04. Bilingual Education Textbooks

Text as added by Acts 1973, 63rd Leg., p. 863, ch. 392, § 3

(a) The State Board of Education shall acquire, purchase, and contract for, with bids, subject to rules and regulations adopted by the board, free textbooks and supporting media for use in bilingual education programs conducted in the public school systems of this state.

(b) The textbooks and supporting media shall be paid for out of the textbook fund and shall be the property of the State of Texas, to be controlled, distributed, and disposed of pursuant to board regulations.

Added by Acts 1973, 63rd Leg., p. 863, ch. 392, § 3, eff. Aug. 27, 1973.

For text as added by Acts 1971, 62nd Leg., p. 1396, ch. 377, § 1, see main volume.

Cross References

Bilingual education,
  Generally, see § 21.451 et seq.
  Training institutes, see § 11.17.

SUBCHAPTER B. STATE ADOPTION, PURCHASE, ACQUISITION, AND CUSTODY

§ 12.11. State Textbook Committee

1. Construction and application

The State Textbook Committee may not recommend for adoption, nor may the State Board of Education adopt, textbooks upon which the state is to realize pro-rata royalties from the private publishers thereof, but when the state is not participating with private interests in the royalties from a textbook, the textbook may be properly recommended and adopted though it contains materials cooperatively developed with an independent laboratory, financed in part from Central Educational Agency funds. Op.Atty.Gen.1973, No. H-79.

§ 12.15. Multiple List for High Schools

(a) The State Board of Education shall adopt a multiple list of books for use in the high schools of Texas.

(b) The multiple list shall include not fewer than three nor more than five textbooks on the following subjects: algebra, plane geometry, solid geometry, general science, biology, physics, chemistry, a one-year world history, American history, homemaking, physical geography, driver education and safety, vocal music, English composition, literature (including American literature and English literature), shop courses, physiology, agriculture, civil government, commercial arithmetic, bookkeeping, type-

§ 21.104. Physiology and Hygiene

1. Pleading

Complaint in students' action to enjoin school district and State Board of Education from teaching theory of evolution as part of district's academic curriculum to the exclusion of other theories regarding origin of man, on ground that such teachings inhibited students, who could ask to be exempt from such instruction, in the free exercise of their religion and that such teachings constituted the establishment of religion and denied equal protection failed to state claim upon which relief could be granted. Wright v. Houston Independent School Dist. (D.C.1972) 366 F.Supp. 1208, affirmed 486 F.2d 137, rehearing denied 487 F.2d 1401, rehearing denied 489 F.2d 1312.

§ 21.109. Language of Instruction

(a) English shall be the basic language of instruction in all schools.

(b) It is the policy of this state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered or permitted in those situations when such instruction is necessary to insure their reasonable efficiency in the English language so as not to be educationally disadvantaged.

Amended by Acts 1973, 63rd Leg., p. 863, ch. 392, § 4, eff. Aug. 27, 1973.

1973 Amendment. Deleted second sentence of subsec. (a) and, in subsec. (b), substituted "necessary to insure their reasonable efficiency in the English language so as not to be educationally disadvantaged" for "educationally advantageous * * * end of that time".

Cross References

Bilingual education,
  Generally, see § 21.451 et seq.
  Textbooks, see § 12.04.

§ 21.111. Vocational and Other Educational Programs

Cross References

Adult education, see § 11.18.
Technical-vocational education generally, see § 31.01 et seq.

§ 21.118 Crime and Narcotics Program, Administration

(a) A comprehensive program to provide for an effective state-supported administration of course preparation, instruction and teaching in the public schools of this state, as required by law, on the dangers and prevention of crime, narcotics, and drug abuse shall be developed under policies and regulations of the Central Education Agency. Such program administered by the agency shall provide for and encompass also the services of the regional education service centers and the school districts of this state, thereby to coordinate and effectuate improvement in instruction, development of teachers therein, and preparation and distribution of instructional materials and guidelines for program development.

(b) Among desired conditions necessary to provide and implement an effective education program, the Central Education Agency in its development of such program shall consider the following:

(1) Carefully conducted assessment(s) of the drug problem of each local school district, to include the needs of students, thereby to provide data on a regional service center and statewide basis and to define specific needs.

(2) Continued training of Central Education Agency, regional education service center and school district personnel in drug-crime education.

(3) Cooperative efforts to educate all members of the community concerning the drug problem and ways community involvement can contribute to the solution.

(4) Continued research and study to define further needs and design of model programs to such needs.

the Federal Elementary and Secondary Education Act of 1965. 1961, March 8, Laws 1961, p. 31, § 14B-5, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

[1] See 20 U.S.C.A. § 236 et seq.

Library references
Schools and School Districts ⇐11, 47, 164.
C.J.S. Schools and School Districts §§ 13, 86-91, 485.
I.L.P. Schools §§ 21, 61, 238.

§ 14B-6. Standards

In evaluating a compensatory education program, the Advisory Council shall determine (1) the existence within the applicant of residential areas likely to produce a substantial number of culturally disadvantaged children; that such areas may be properly classified as slum or economically depressed areas, whether urban or rural, or areas containing a high concentration of impoverished families, non-English speaking families, recent immigrants, migratory farm families, children with a high drop out potential, or low-income racial or nationality minorities; and the methods or factors used in reaching such determinations; (2) the adequacy of the proposed program as relates to the quality of the personnel available to provide services and activities of high standards; (3) the adequacy of the applicant's facilities and resources for the successful carrying out of the proposed program; (4) the efficiency of the program including a justification of expenditures and measured by anticipated results; (5) the existence of a plan for the collection of information providing the basis for a continuing evaluation of the program and (6) other standards as are set forth in Title I of the Federal Elementary and Secondary Education Act of 1965.[1] 1961, March 18, Laws 1961, p. 31, § 14B-6, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

[1] See 20 U.S.C.A. § 236 et seq.

Library references
Schools and School Districts ⇐11, 47, 164.
C.J.S. Schools and School Districts §§ 13, 86-91, 485.
I.L.P. Schools §§ 21, 61, 238.

§ 14B-7. Rules and regulations

The Superintendent of Public Instruction shall adopt such rules and regulations as are necessary to enable him to carry out his duties and responsibilities under this Article, including rules and regulations which (a) prescribe the procedure by which proposals shall be submitted for approval, (b) require the submission of such reports as will permit the evaluation of compensatory education programs and the accumulation of information which will be useful in developing suggestions, policies and requirements for improvement of such programs generally.

By July 10, annually, the superintendent of the school district or other chief administrative officer of the applicant shall certify to the County Superintendent of Schools, in whose county the largest number of children in the program reside, upon forms prescribed by the Superintendent of Public Instruction, the applicant's claim for reimbursement for the school year ending on June 30th next preceding. The County Superintendent of Schools shall check all such claims to ascertain compliance with the prescribed standards and upon his approval shall by July 25th certify to the Superintendent of Public Instruction the county report of claims for reimbursements. The Superintendent of Public Instruction shall check and upon approval he shall transmit by September 15th the State report of claims to the State Comptroller and prepare the vouchers showing the amounts due respective applicants for their reimbursement claims. In any year the total reimbursements paid to an applicant having a population of 500,000 or more inhabitants shall not exceed 5/8 of the appropriation made by the General Assembly for reimbursements to school districts and other applicants under Section 14B-5 of this Act, and the total amount of reimbursements to all other applicants shall not exceed 3/8 of such appropriation. If the amount appropriated for such reimbursements for any year is insufficient to pay the claims in full, the total amount shall be apportioned on the basis of the claims approved.

That on or before January 20 of the odd numbered year the Superintendent of Public Instruction shall prepare for the General Assembly a report on the programs and the claims, including detailed accounts for the last two years which the district superintendents have submitted to the Superintendent of Public Instruction. This will enable the General Assembly to review in detail the scope of the total program and the desirability of whether or not to continue such a program.

1961, March 18, Laws 1961, p. 31, § 14B-7, added by 1965, Aug. 20, Laws 1965, p. 3232, § 1. Amended by P.A. 78-592, § 43, eff. Oct. 1, 1973.

Library references

Administrative Law and Procedure ⇨385 et seq.
Schools and School Districts ⇨47.
C.J.S. Public Administrative Bodies and Procedure § 93 et seq.
C.J.S. Schools and School Districts §§ 86-91.
I.L.P. Administrative Law and Procedure § 24.
I.L.P. Schools § 61.

§ 14B-8. Funding

The Superintendent of Public Instruction is authorized to take any further steps that may be reasonably required to make this Article conform to the standards and requirements of any Title of the Federal Elementary and Secondary Education Act of 1965 [1] and to qualify this State to receive federal funds and assistance to carry out the purposes of said Federal Act and of this Article. 1961, March 18, Laws 1961, p. 31, § 14B-8, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

[1] See 20 U.S.C.A. §§ 236 et seq.

Library references

Schools and School Districts ⇨11, 16 et seq., 47.
United States ⇨82.
C.J.S. Schools and School Districts §§ 13, 17 et seq., 86-91.
C.J.S. United States § 122.
I.L.P. Schools §§ 21, 61.

ARTICLE 14C. TRANSITIONAL BILINGUAL EDUCATION [NEW]

Sec.
14C-1. Legislative finding and declaration.
14C-2. Definitions.
14C-2.1 Establishment of programs until July 1, 1976.
14C-3. Language classification of children—Establishment of program—Period of participation—Examination.
14C-4. Notice of enrollment—Content—Rights of parents.
14C-5. Nonresident children—Enrollment and tuition—Joint programs.
14C-6. Placement of children.
14C-7. Participation in extracurricular activities of public schools.
14C-8. Teacher certification—Qualifications—Issuance of certificates.
14C-9. Tenure—Minimum salaries.
14C-10. Parent and community participation.
14C-11. Preschool or summer school programs.
14C-12. Account of expenditures—Cost report—Reimbursement.

Article 14C was added by P.A. 78-727, § 1, effective October 1, 1973.

§ 14C-1. Legislative finding and declaration

The General Assembly finds that there are large numbers of children in this State who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The General Assembly believes that a program of transitional bilingual education can meet the needs of these children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of this State to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-speaking ability, and in recognition of the success of the limited existing bilingual programs conducted pursuant to Sections 10-22.38a and 34-18.2 of The School Code, it is the purpose of this Act to provide for the establishment of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to help local school districts meet the extra costs of such programs.

1961, March 18, Laws 1961, p. 31, § 14C-1, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-2. Definitions

Unless the context indicates otherwise, the terms used in this Article have the following meanings:

(a) "Superintendent's Office" means the Office of the Superintendent of Public Instruction;

(b) "Certification Board" means the State Teacher Certification Board;

(c) "School District" means any school district established under this Code;

(d) "Children of limited English-speaking ability" means (1) children who were not born in the United States whose native tongue is a language other than English and who are incapable of performing ordinary classwork in English; and (2) children who were born in the United States of parents possessing no or limited English-speaking ability and who are incapable of performing ordinary classwork in English;

(e) "Teacher of transitional bilingual education" means a teacher with a speaking and reading ability in a language other than English in which transitional bilingual education is offered and with communicative skills in English;

(f) "Program in transitional bilingual education" means a full-time program of instruction (1) in all those courses or subjects which a child is required by law to receive and which are required by the child's school district which shall be given in the native language of the children of limited English-speaking ability who are enrolled in the program and also in English, (2) in the reading and writing of the native language of the children of limited English-speaking ability who are enrolled in the program and in the oral comprehension, speaking, reading and writing of English, and (3) in the history and culture of the country, territory or geographic area which is the native land of the parents of children of limited English-speaking ability who are enrolled in the program and in the history and culture of the United States; or a part-time program of instruction based on the educational needs of those children of limited English speaking ability who do not need a full-time program of instruction.

1961, March 18, Laws 1961, p. 31, § 14C-2, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-2.1 Establishment of programs until July 1, 1976

School boards of any school districts that maintain a recognized school, whether operating under the general law or under a special charter, may until July 1, 1976, depending on available state aid, and shall thereafter, subject to any limitations hereinafter specified, establish and maintain such transitional bilingual programs as may be needed for children of limited English-speaking ability as authorized by this Article.

1961, March 18, Laws 1961, p. 31, § 14C-2.1, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-3. Language classification of children—Establishment of program—Period of participation—Examination

Each school district shall ascertain, not later than the first day of March, under regulations prescribed by the Superintendent's Office, the number of children of limited English-speaking ability within the school district, and shall classify them according to the language of which they possess a primary speaking ability, and their grade level, age or achievement level.

When, at the beginning of any school year, there is within an attendance center of a school district not including children who are enrolled in existing private school systems, 20 or more children of limited English-speaking ability in any such language classification, the school district shall establish, for each classification, a program in transitional bilingual education for the children therein; provided, however, that a school district may establish a program in transitional bilingual education with respect to any classification with less than 20 children therein.

Every school-age child of limited English-speaking ability not enrolled in existing private school systems shall be enrolled and participate in the program in transitional bilingual education established for the classification to which he belongs by the school district in which he resides for a period of 3 years or until such time as he achieves a level of English language skills which will enable him to perform successfully in classes in which instruction is given only in English, whichever shall first occur.

A child of limited English-speaking ability enrolled in a program in transitional bilingual education may, in the discretion of the school district and subject to the approval of the child's parent or legal guardian, continue in that program for a period longer than 3 years.

An examination in the oral comprehension, speaking, reading and writing of English, as prescribed by the Superintendent's Office, shall be administered annually to all children of limited English-speaking ability enrolled and participating in a program in transitional bilingual education. No school district shall transfer a child of limited English-speaking ability out of a program in transitional bilingual education prior to his third year of enrollment therein unless the parents of the child approve the transfer in writing, and unless the child has received a score on said examination which, in the determination of the Superintendent's Office, reflects a level of English language skills appropriate to his or her grade level.

If later evidence suggests that a child so transferred is still handicapped by an inadequate command of English, he may be re-enrolled in the program for a length of time equal to that which remained at the time he was transferred.

1961, March 18, Laws 1961, p. 31, § 14C-3, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-4. Notice of enrollment—Content—Rights of parents

No later than 10 days after the enrollment of any child in a program in transitional bilingual education the school district in which the child resides shall notify by mail the parents or legal guardian of the child of the fact that their child has been enrolled in a program in transitional bilingual education. The notice shall contain a simple, nontechnical description of the purposes, method and content of the program in which the child is enrolled and shall inform the parents that they have the right to visit transitional bilingual education classes in which their child is enrolled and to come to the school for a conference to explain the nature of transitional bilingual education. Said notice shall further inform the parents that they have the absolute right, if they so wish, to withdraw their child from a program in transitional bilingual education in the manner as hereinafter provided.

The notice shall be in writing in English and in the language of which the child of the parents so notified possesses a primary speaking ability.

Any parent whose child has been enrolled in a program in transitional bilingual education shall have the absolute right, either at the time of the original notification of enrollment or at the close of any semester thereafter, to withdraw his child from said program by providing written notice of such desire to the school authorities of the school in which his child is enrolled or to the school district in which his child resides; provided that no withdrawal shall be permitted unless such parent is informed in a conference with school district officials of the nature of the program.

1961, March 18, Laws 1961, p. 31, § 14C-4, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-5. Nonresident children—Enrollment and tuition—Joint programs

A school district may allow a nonresident child of limited English-speaking ability to enroll in or attend its program in transitional bilingual education and the tuition for such a child shall be paid by the district in which he resides.

Any school district may join with any other school district or districts to provide the programs in transitional bilingual education required or permitted by this Article.
1961, March 18, Laws 1961, p. 31, § 14C-5, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-6. Placement of children

Children enrolled in a program of transitional bilingual education whenever possible shall be placed in classes with children of approximately the same age and level of educational attainment. If children of different age groups or educational levels are combined, the school district so combining shall ensure that the instruction given each child is appropriate to his or her level of educational attainment and the school districts shall keep adequate records of the educational level and progress of each child enrolled in a program. The maximum student-teacher ratio shall be set by the Superintendent's Office and shall reflect the special educational needs of children enrolled in programs in transitional bilingual education. Programs in transitional bilingual education shall, whenever feasible, be located in the regular public schools of the district rather than separate facilities.
1961, March 18, Laws 1961, p. 31, § 14C-6, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-7. Participation in extracurricular activities of public schools

Instruction in courses of subjects included in a program of transitional bilingual education which are not mandatory may be given in a language other than English. In those courses or subjects in which verbalization is not essential to an understanding of the subject matter, including but not necessarily limited to art, music and physical education, children of limited English-speaking ability shall participate fully with their English-speaking contemporaries in the regular public school classes provided for said subjects. Each school district shall ensure to children enrolled in a program in transitional bilingual education practical and meaningful opportunity to participate fully in the extracurricular activities of the regular public schools in the district.
1961, March 18, Laws 1961, p. 31, § 14C-7, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-8. Teacher certification—Qualifications—Issuance of certificates

No person shall be eligible for employment by a school district as a teacher of transitional bilingual education unless he meets the requirements set forth in this Section. School districts shall give preference in employing transitional bilingual education teachers to those individuals who have the relevant foreign cultural background established through residency abroad or by being raised in a non-English speaking environment. The Certification Board shall issue certificates valid for teaching transitional bilingual education to any person who presents it with satisfactory evidence that he (a) possesses an adequate speaking and reading ability in a language other than English in which transitional bilingual education is offered and communicative skills in English, and (b) possesses a current and valid teaching certificate issued pursuant to Article 21 of this Code or (c) possessed within one year previous to his applying for a certificate under this Section a valid teaching certificate issued by a foreign country, or other evidence of teacher preparation as may be determined to be sufficient by the Certification Board; provided that any person seeking a certificate under subsection (c) of this Section must meet the following additional requirements:

(1) Such person must be in good health;

(2) Such person must be of sound moral character;

(3) Such person must be legally present in the United States and possess legal authorization for employment;

(4) Such person must not be employed to replace any presently employed teacher who otherwise would not be replaced for any reason.

Certificates issuable pursuant to subsection (c) of this Section shall be issuable only during the 2 years immediately following the effective date of this Act, and shall be valid for a period of 6 years following their date of issuance. Such certificates and the persons to whom they are issued shall be exempt from the provisions of Article 21 of this Code except for Sections 21-12, 21-13, 21-16, 21-17, 21-19, 21-21, 21-22, 21-23 and 21-24.
1961, March 18, Laws 1961, p. 31, § 14C-8, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-9. Tenure—Minimum salaries

Any person employed as a teacher of transitional bilingual education whose teaching certificate was issued pursuant to subsection (c) of Section 14C-8 of this Article shall have such employment credited to him for the purposes of determining under the provisions of this Code eligibility to enter upon contractual continued service; provided that such employment immediately precedes and is consecutive with the year in which such person becomes certified under Article 21 of this Code.

For the purposes of determining the minimum salaries payable to persons certified under subsection (c) of Section 14C-8 of this Article, such persons shall be deemed to have been trained at a recognized institution of higher learning.
1961, March 18, Laws 1961, p. 31, § 14C-9, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-10. Parent and community participation

School districts shall provide for the maximum practical involvement of parents of children in transitional bilingual education programs. Each school district shall, accordingly, establish a parent advisory committee which affords parents the opportunity effectively to express their views and which ensures that such programs are planned, operated, and evaluated with the involvement of, and in consultation with, parents of children served by the programs. Such committees shall be composed of parents of children enrolled in transitional bilingual education programs, transitional bilingual education teachers, counselors, and representatives from community groups; provided, however, that a majority of each committee shall be parents of children enrolled in the transitional bilingual education program.
1961, March 18, Laws 1961, p. 31, § 14C-10, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-11. Preschool or summer school programs

A school district may establish on a full or part-time basis preschool or summer school programs in transitional bilingual education for children of limited English-speaking ability or join with the other school districts in establishing such preschool or summer programs. Preschool or summer programs in transitional bilingual education shall not substitute for programs in transitional bilingual education required to be provided during the regular school year.
1961, March 18, Laws 1961, p. 31, § 14C-11, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

§ 14C-12. Account of expenditures—Cost report—Reimbursement

Each school district shall keep an accurate, detailed and separate account of all monies paid out by it for the programs in transitional bilingual education required or permitted by this Article including transportation costs, and shall annually report thereon for the school year ending June 30 indicating the average per pupil expenditure. Each school district shall be reimbursed for the amount by which such costs exceed the average per pupil expenditure by such school district for the education of children of comparable age who are not in any special education program.

Applications for preapproval for reimbursement for costs of transitional bilingual education programs must be first submitted through the office of the county superintendent of schools to the Superintendent's Office at least 60 days before a transitional bilingual education program is started, unless a justifiable exception is granted by the Superintendent of Public Instruction. Applications shall set forth a plan for transitional bilingual education established and maintained in accordance with this Article. Reimbursement claims for transitional bilingual education programs shall be made as follows:

Each school district shall file its claim computed in accordance with rules prescribed by the Superintendent's Office with the county superintendent of schools, in triplicate, on or before August 1, for approval on forms prescribed by the Superintendent's Office. Data used as a basis of reimbursement claims shall be for the school year ended on June 30 preceding. The county superintendent of schools shall check and upon approval provide the Superintendent's Office with the original and one copy of the claims on or before August 15. The Superintendent's Office before approving any such claims shall determine their accuracy and whether they are based upon services and facilities provided under approved programs. Upon approval he shall transmit by September 20 the State report of claims to the Comptroller and prepare the vouchers showing the amounts due the respective counties for their school district's reimbursement claims. If the Superintendent's Office finds that he will be unable to make a final determination of the accuracy of such claims by September 20, he shall direct the Comptroller to pay ¾ of the amount of such claims by September 30, and the remainder shall be paid before December 1. In this event, the amount of the final payment shall be adjusted to reflect any partial disapproval of a claim by the Superintendent's Office. If the Comptroller pays ¾ of the amount of any such claim, as aforesaid, and such amount exceeds the amount of the claim which the said school district is legally entitled to receive, then the Superintendent's Office shall notify the school district to return to the State Treasurer, by December 1, the excess amount. If the money appropriated by the General Assembly for such purpose for any year is insufficient, it shall be apportioned on the basis of the claims approved.

Failure on the part of the school district to prepare and certify the report of claims due under this Section on or before August 1 of any year, and its failure thereafter to prepare and certify such report to the county superintendent of schools within 10 days after receipt of notice of such delinquency sent to it by the Superintendent's Office by registered mail, shall constitute a forfeiture by the school district of its right to be reimbursed by the State under this Section.

1961, March 18, Laws 1961, p. 31, § 14C-12, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

ARTICLE 15. COMMON SCHOOL LANDS

§ 15-4. Cutting, injuring, destroying or carrying away trees, etc.—Civil liability

Whoever, without being authorized, cuts, fells, boxes, bores, destroys or carries away any tree, sapling or log standing or being upon school lands, shall forfeit and pay for every tree, sapling or log so felled, boxed, bored, destroyed or carried away, the sum of $8, which penalty shall be recovered with costs of suit by civil action before the circuit court, either in the corporate name of the township land commissioners or board of trustees of the township to which the land belongs, or by action in the name of any person who first sues therefor in which case ½ of the amount of the judgment shall be paid to the person suing and the other ½ to the township. When 2 or more persons are concerned in the same trespass, they shall be jointly and severally liable for the penalty herein imposed. As amended 1965, Aug. 24, Laws 1965, p. 3739, § 1.

§ 15–5. Penalty for trespass

Every trespasser upon common school lands is guilty of a petty offense and shall be fined 3 times the amount of the injury occasioned by the trespass.

Amended by P.A. 77-2267, § 1, eff. Jan. 1, 1973.

The amendment by P.A. 77-2267 was necessary to conform penalties under this section with the Unified Corrections Code, see ch. 38, § 1001-1-1 et seq.

§ 15–7. Sale of common school lands—Petition—Election

When the inhabitants of any township desire the sale of the common school lands thereof they shall present to the county superintendent of the county in which the school lands of the township, or the greater part thereof lie, a petition for their sale. The petition shall be signed by at least two-thirds of the voters of the township in the presence of at least 2 adult citizens of the township, after the meaning and purpose thereof have been explained, and an affidavit must be affixed thereto by the citizens witnessing the signing, which affidavit shall state the number of inhabitants of the township 21 years of age and over, and the petition so verified shall be delivered to the county superintendent for his action thereon. In townships having a population of more than 10,000 inhabitants, the petition shall be signed by at least 1/10 of the voters thereof and be delivered to the county superintendent at least 15 days preceding the regular election of trustees, or the date of a special election which may be called for such purpose. Upon the filing of any such petition with the county superintendent he shall notify the voters of the township that an election for or against the proposition to sell common school lands of the township will be held at the next regular election of trustees, or at a special election called for that purpose, by publishing notice of the election at least 10 days prior to the date thereof at least once in one or more newspapers published in the township or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the township, which notice may be in the following form:

ELECTION FOR SALE OF COMMON
SCHOOL LANDS

Notice is hereby given that on .... the .... day of ...., 1...., an election will be held at .... for the purpose of voting "for" or "against" the proposition to sell common school lands of the township, to-wit: (here insert description of the lands). The polls will be opened at .... and closed at .... o'clock, ...M.

County Superintendent

The ballots of the election shall be received and canvassed as at elections provided for in Article 5, and the returns of the result thereof made to the county superintendent, and if two-thirds of the votes upon the proposition are in favor of the sale, the county superintendent shall act thereon. No section shall be sold in any township containing fewer than 200 inhabitants. Common school lands in fractional townships may be sold when the number of acres are in, or above, a ratio of 200 to 640 but not before, provided, that where the lands sought to be sold are swamp or overflow lands, and are located in a township containing less than 200 inhabitants, a petition signed by at least two-thirds of the voters in the township shall be sufficient to cause the county superintendent to act thereon. All other proceedings shall be the same as provided in this section. This section does not prohibit the transfer of school land belonging to a city in trust for the use of schools under the provisions of "An Act in relation to the transfer of real estate owned by municipalities" approved July 2, 1925, as amended,[1] when the board of education of a city having a population exceeding 100,000 inhabitants desires to convey such land to the city comprising the school district of such board of education; and in case of such transfer the limitations as to the size of the lot or tract of land that may be conveyed contained in Sections 15—9 through 15—12, shall not apply.

Amended by P.A. 76-1215, § 1, eff. Sept. 11, 1969.

[1] Chapter 30, § 155 et seq.

cation, created by the 77th General Assembly, in defining urban school needs and developing responsive models, projects and programs for meeting the needs of urban school systems. The Department of Urban Education has the power and duty to:

(1) Coordinate all private and public resources available for urban education, develop criteria for evaluating all special, experimental, research, and remedial educational programs undertaken by urban school districts; utilize these criteria for evaluating all such programs, individually and collectively, coordinating such programs where possible; collect and disseminate information on all such programs to all urban school districts in the State; conduct research and design projects and programs for use by urban school districts; and encourage and facilitate the installation and evaluation of innovative programs in urban school districts.

(2) Develop an experiment for local school governance for implementation, by agreement with the local school board in any school district, including those governed by Article 34 of this Act, having a weighted average daily attendance of 20,000 or more. Such an experiment may include areas of staffing, curriculum, fiscal policy, accountability, evaluation and any other powers or duties conferred by law on local school boards. In implementing such an experiment, provision shall be made for

(a) establishment of an equal number of control and experiment groups, each to contain not more than ¼ of the districts' weighted average daily attendance population or 50,000 pupils, whichever is less;

(b) election by voters and parents or legal guardians of pupils attending school within the territorial limits of the experimental area, under Article 9 of this Act, of a local governing board for each experiment group, except in districts over 500,000 which already have duly elected local school councils or boards, to assume responsibilities September 1, 1973, and to govern the experiment group for 3 years thereafter. Said governing board shall consist, except in districts over 500,000 already having local school councils or boards, of no more than 7 members all of whom must live within, or have pupils attending school within, the experimental area. Notwithstanding provisions of Article 9 to the contrary, the Department of Urban Education may establish provisions for voter qualifications, registration of voters and a special date for election of governing boards;

(c) continued governance of the control groups by the school board for the district; and

(d) the powers and duties to be exercised and performed by the local governing boards of the experiment groups during the 3 year period, such powers and duties to be subject to modification by agreement between the Department and the school board of such district.

(3) Provide grants of not less than $100 nor more than $200 per average daily attendance pupil in each experimental group to each school district participating in an experiment under this Section for paying the costs incurred by the district in implementing the experiment and the cost of related innovative programs related to urban education programs conducted by the district with the approval of the Department. Such grants may not be used to increase the general per pupil expenditures in the district nor to affect the entitlement of the district to State aid under Article 18 of this Act.

(4) Submit semiannual progress reports to the Commission on Urban Education, and to assist the Commission in preparation of a final report regarding the experiments, including recommendations of suggested legislation, to the General Assembly upon conclusion of the experiments.

1961, March 18, Laws 1961, p. 31, § 2-3.37, added by P.A. 77-1631, § 1, eff. Sept. 23, 1971. Amended by P.A. 78-505, § 1, eff. Oct. 1, 1973.

Another section 2-3.37, added by P.A. 77-1236, § 1, was renumbered section 2-3.38 and amended by P.A. 77-1849, § 6, eff. July 1, 1972.

Section 2 of P.A. 77-1631 made an appropriation.

Library references

Schools and School Districts 🔑12, 47.

C.J.S. Schools and School Districts §§ 13, 86-91.

I.L.P. Schools §§ 31, 51 et seq.

§ 2-3.38 Appeals

To hear and decide appeals under Section 10-22.41 of The School Code.[1]
1961, March 18, Laws 1961, p. 31, § 2-3.37, added by P.A. 77-1236, § 1, eff. Aug. 24, 1971. Renumbered as § 2-3.38 by P.A. 77-1849, § 6, eff. July 1, 1972.

---

[1] Chapter 122, § 10-22.41.

Another section 2-3.37 was added by P.A. 77-1631, see section 2-3.37 of this chapter.

§ 2-3.39 Department of Transitional Bilingual Education

To establish a Department of Transitional Bilingual Education to be operative within 3 months after the effective date of this amendatory Act of 1973. In selecting staff for the Department of Transitional Bilingual Education the Superintendent shall give preference to persons who are natives of foreign countries where languages to be used in transitional bilingual education programs are the predominant languages. The Department of Transitional Bilingual Education has the power and duty to:

(1) Administer and enforce the provisions of Article 14C of this Code including the power to promulgate any necessary rules and regulations.

(2) Study, review, and evaluate all available resources and programs that, in whole or in part, are or could be directed towards meeting the language capability needs of children and adults of limited English-speaking ability residing in the State.

(3) Gather information about the theory and practice of bilingual education in this State and elsewhere, and encourage experimentation and innovation in the field of bilingual education.

(4) Provide for the maximum practical involvement of parents of bilingual children, transitional bilingual education teachers, representatives of community groups, educators, and laymen knowledgeable in the field of bilingual education in the formulation of policy and procedures relating to the administration of Article 14C of this Code.

(5) Consult with other public departments and agencies, including but not limited to the Department of Community Affairs, the Department of Public Welfare, the Division of Employment Security, the Commission Against Discrimination, and the United States Department of Health, Education, and Welfare in connection with the administration of Article 14C of this Code.

(6) Make recommendations in the areas of preservice and in-service training for transitional bilingual education teachers, curriculum development, testing and testing mechanisms, and the development of materials for transitional bilingual education programs.

(7) Undertake any further activities which may assist in the full implementation of Article 14C of this Code and to make an annual report to the General Assembly to include an evaluation of the program, the need for continuing such a program, and recommendations for improvement.
1961, March 18, Laws 1961, p. 31, § 2-3.39, added by P.A. 78-727, § 1, eff. Oct. 1, 1973.

currence was acting under the direction of the board within the course or scope of his duties.

1961, March 18, Laws 1961, p. 31, § 34–18.1, added by 1963, Aug. 27, Laws 1963, p. 3425, § 1. Amended by P.A. 77–717, § 1, eff. Aug. 12, 1971; P.A. 78–737, § 1, eff. July 1, 1973.

Section 2 of P.A. 78–737, approved September 10, 1973, provided: "This Act shall take effect July 1, 1973." For special effective dates see ch. 131, § 22.

Cross References

Indemnification of public employees, see Local Government, ch. 85, § 2—301.

Severability, see note under § 34–18 of this chapter.

Law Review Commentaries

Illinois Tort Claims Act: A new approach to municipal tort immunity in Illinois. 61 N.W.L.Rev. 265 (1966).

Liability of local governments and their employees in Illinois. 1970, 58 Ill. Bar J. 620.

Index to Notes

In general 2
Validity 1

1. Validity

Ill.Rev.Stat.1965, ch. 122, 10–21.6 (repealed), worded exactly as this section, but applying only to school districts with population over 500,000, requiring school board to indemnify employees where damages were sought for employee's negligence did not make school board responsible for debt of an individual in violation of Const.1870, Art. 4, § 20, prohibiting state from paying, assuming or becoming responsible for the debts or liabilities of any public or other corporation, association or individual. Treece v. Shawnee Community Unit School Dist. No. 84, 1968, 39 Ill.2d 136, 233 N.E. 2d 549.

Ill.Rev.Stat.1965, ch. 122, § 10–21.6 (repealed), worded exactly as this section but limited to school districts with populations over 500,000 which covered employees through insurance while districts with lesser populations indemnify employees held liable for negligence, was not arbitrary and unreasonable and did not grant special or exclusive privilege to employees of school district having population of less than 500,000 in violation of Constitution. Id.

Ill.Rev.Stat.1965, ch. 122, § 10–21.6, requiring school district's indemnification of school employee held liable for negligence did not violate provision of Const. 1870, Art. 4, § 23, declaring legislature powerless to release or extinguish indebtedness, liability or obligation of person to state or any municipal corporation. Id.

2. In general

That board of education had seen fit to insure against liability did not in any way make board liable for injuries sustained by member of high school basketball team when he was struck in face by fist of member of another team during basketball game. Fustin v. Board of Ed. of Community Unit Dist. No. 2, 1968, 101 Ill.App.2d 113, 242 N.E.2d 308.

Enactment of Ill.Rev.Stat.1965, ch. 122, § 10–21.6 (repealed), worded exactly as this section, but applying only to school districts with population over 500,000, calling for school district's indemnification of employee held liable for negligence eliminated any right school district might have had to recover back from negligent employee. Treece v. Shawnee Community Unit School Dist. No. 84, 1968, 39 Ill.2d 136, 233 N.E.2d 549.

§ 34–18.2 Bilinqual programs

The Board of Education may provide programs in a language other than English for those children whose first language is other than English. Such programs are subject to the approval of the Superintendent of Public Instruction pursuant to Article 14C of The School Code. Upon approval of the program the Board shall be entitled to payment from the State of Illinois for the services and materials required.

1961, March 18, Laws 1961, p. 31, § 34–18.2, added by P.A. 76–2572, § 1, eff. July 10, 1970. Amended by P.A. 77–1524, § 1, eff. Sept. 10, 1971; P.A. 78–727, § 1, eff. Oct. 1, 1973.

Section 2 of P.A. 76–2572 made an appropriation.

Section 2 of P.A. 77–1524 made an appropriation.

§ 34–19. By-laws, rules and regulations—Business transacted at regular meetings—Voting—Records

Law Review Commentaries

Illinois public school expulsions; impending confrontation with due process. Sheldon Nahmod, 1969, 50 Chicago Bar Rec. 293.

Student rights under the First Amendment versus right of school to discipline. Allan D. Schwartz, 1971, 60 Ill.Bar J. 104.

2. Powers of board

Compulsory attendance statutes are directed to parents or guardians and do not purport to guarantee students impunity from discipline removing them from their school regardless of misconduct they engage in. Betts v. Board of Ed. of City of Chicago, C.A.1972, 466 F. 2d 629.

§ 34–20. Acquisition of real estato—Condemnation proceedings—Title—Conveyances

1. Construction and application

Chicago board of education was not required to consult with or secure approval of Chicago Plan Commission prior to instituting condemnation proceeding to acquire school site. City of Chicago for Use of Schools v. Albert J. Schorsch Realty Co., 1970, 127 Ill.App.2d 51, 261 N.E.2d 711, certiorari denied 91 S.Ct. 1381, 402 U.S. 908, 28 L.Ed.2d 649.

City of Chicago school board was not required to reveal or record information or motives that went into its decision to acquire school site by condemnation. Id.

6. Condemnation suits

The filing of resolution of board of education to acquire property for school site was sufficient, and no plans, reports or surveys were required to be prepared as a condition precedent to board's exercise of power to acquire a school site. City of Chicago for Use of Schools v. Albert J. Schorsch Realty Co., 1970, 127 Ill. App.2d 51, 261 N.E.2d 711, certiorari denied 91 S.Ct. 1381, 402 U.S. 908, 28 L.Ed. 2d 649.

Motions to dismiss condemnation proceeding by board of education on ground that preliminary plans for construction of school or type of school were not made, that taking was excessive, that no surveys or other basis why board should proceed differently than in two suits it theretofore dismissed appeared of record, that board did not consult with Chicago plan commission and that board had kept from record information which entered into its exercise of discretion in seeking to acquire school site were properly denied and in so doing defendants' right to due process of law was not violated. Id.

In proceeding to condemn parcel D for school site, denial of leave to file a cross petition and have damages to remaining five acres immediately north of and contiguous to parcel D assessed was proper since any possible damage to five-acre tract necessarily depended on whether defendant was the "owner or has an interest" in parcel D as required by ch. 47, § 11, and at time of cross petition defendant merely had an option to purchase parcel D and did not "own" it. Id.

Dismissal of two previous condemnation suits by board of education was not relevant to determination that subsequent taking was excessive. Id.

§ 34–21. Rentals and leases—Sale of real estate

Law Review Commentaries

School district's leasing of classrooms in parochial school. 1973, 22 De Paul L. Rev. 649.

§ 34–21.1 Additional Powers

In addition to other powers and authority now possessed by it, the board shall have power:

(1) To lease from any public building commission created pursuant to the provisions of the Public Building Commission Act, approved July 5, 1955, as heretofore or hereafter amended,[1] any real or personal property for the purpose of securing office or other space for its administrative functions for a period of time not exceeding 40 years;

(2) To pay for the use of this leased property in accordance with the terms of the lease and with the provisions of the Public Building Commission Act, approved July 5, 1955, as heretofore or hereafter amended;

(3) Such lease may be entered into without making a previous appropriation for the expense thereby incurred; provided, however, that if the board undertakes to pay all or any part of the costs of operating and maintaining the property of a public building commission as authorized in subparagraph (4) of this Section, such expenses of operation and maintenance shall be included in the annual budget of such board annually during the term of such undertaking;

(4) In addition, the board may undertake, either in the lease with a public building commission or by separate agreement or contract with a public building commission, to pay all or any part of the costs of maintaining and operating the property of a public building commission for any period of time not exceeding 40 years.

Amended by P.A. 77-1352, § 1, eff. Aug. 27, 1971.

---

[1] Chapter 34, § 256 et seq.

The 1971 amendment increased from 20 to 40 years the maximum terms of a lease with the Public Building Commission.

1. In general

Chicago Board of Education had authority to donate cash to Public Building Commission for construction of school building and auxiliary facilities to be leased by the Board. Paepcke v. Public Bldg. Commission of Chicago, 1970, 46 Ill.2d 230, 263 N.E.2d 11.

Board of education of city of Chicago had authority to lease school house space from Building Commission. Id.

This section and others including Public Building Commission Act, authorized diversion of portion of land dedicated to park purposes for use for school construction. Id.

In proposed program under Public Building Commission Act, ch. 85, § 1031 et seq., school board could lease a schoolhouse from public building commission and could donate school property to commission, and could request that city council levy a tax to cover cost of operation under such lease. People ex rel. Stamos v. Public Bldg. Commission of Chicago, 1968, 40 Ill.2d 164, 238 N.E. 2d 390.

Public Building Commission Act, ch. 85, § 1031 et seq., authorizes construction and leasing of a complex of schoolhouse, park and related facilities, involving hundreds of outmoded buildings required to be utilized in conduct of local government. Id.

APPENDIX D

REFERENCES

Anastasi, A. "Some Implications of Cultural Factors for Test Construction." *Testing Problems in Perspective*. ed. Anne Anastasi. Washington, D.C.: American Council, 1966.

Andersson, T. and M. Boyer. *Bilingual Schooling in the United States.* Southwest Educational Development Laboratory. Washington, D.C.: U.S. Government Printing Office, 1970.

Angel, F. "Social Class or Culture," *The Language Education of Minority Children*, ed. Bernard Spolsky. Rowley, Mass.: Newbury House, 1972.

Annual Census of School Population. Board of Education of the City of New York. Office of Business and Administration. Oct. 31, 1972.

Arsenian, S. *Bilingualism and Mental Development*. Ann Arbor, Mich.: University Microfilms, Inc., 1936.

Asian and Pacific Peoples: A Case of Mistaken Identity. A report of the California State Advisory Committee to the United States Commission on Civil Rights. Feb. 1975.

Baratz, J. "A Bidialectal Look for Determining Language Proficiency in Economically Disadvantaged Negro Children." *Child Development*. vol. 40, 1969.

Barker, G. C. "Social Functions of Language in a Mexican American Community." *Acta Americana*. vol. 5.

Beatty, W. H. "Emotion: The Missing Link in Education.: *Improving Educational Assessment and An Inventory of Measures of Affective Behavior.* ed. W. H. Beatty. Washington, D.C.: Association for Supervision and Curriculum Development, NEA. 1969.

Bilingual/Bicultural Education - A Privilege or a Right? A Report of the Illinois State Advisory Committee to the United States Commission on Civil Rights, May 1974.

Bock, P. K. *Modern Cultural Anthropology*. New York: Alfred A. Knopf, 1969.

Bouchard, E. R. "Subjective Reactions Toward Accented Speech." *Language Attitudes: Current Trends and Prospects*. ed. Roger W. Shuy and Ralph W. Rasold. Washington, D.C.: Georgetown University Press, 1973.

Briere, E. "Are We Really Measuring Proficiency with Our Foreign Language Test?" in *The Language Education of Language Minority Children*. ed. Bernard Spolsky. Rowley, Mass.: Newbury House, 1972.

Briere, E. "Phonological Testing Reconsidered." Language Learning. vol. 17, 1967.

Brigham, C. C. "Intelligence Tests of Immigrant Groups," Psychological Review, vol. 37. no. 2. Mar. 1930.

Campbell, R. N. "English Curricula for Non-English Speakers," Monograph Series of Language and Linguistics, 21st Annual Round Table, ed. James E. Alatis. Washington, D.C.: Georgetown University Press, 1970.

Cardenas, J. A. "An Education Plan in the Denver Public Schools." Submitted to court in desegregation plan. Keyes v. The Denver School District No. 1, Civil Action No. C-1499 filed Feb. 5, 1975.

Carroll, J. B. Language and Thought. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1964.

Carter, T. P. Mexican Americans in School: A History of Educational Neglect. New York: College Entrance Examination Board, 1970.

Child Language, A Book of Readings. ed. A. Bar-Adon and W. Leopold. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1971.

Chomsky, C. The Acquisition of Syntax in Children from 5 to 10. Cambridge, Mass. The MIT Press, 1969.

Chomsky, C. "Stages in Language Development and Reading Exposure." Harvard Educational Review, vol. 42, Feb. 1972.

Cohen, A. A Sociolinguistic Approach to Bilingual Education. Rowley, Mass. Newbury House, forthcoming.

Cohen, A. "The Culver City Spanish Immersion Program: The First Two Years," The Modern Language Journal, vol. 58, no. 3, Mar. 1974.

Coleman, J. and others. Equality of Educational Opportunity. Office of Education, U.S. Department of Health, Education, and Welfare. Washington, D.C.: U.S. Government Printing Office, 1966.

Cortes, C. "A bicultural Process for Developing Mexican American Heritage Curriculum." Multi-lingual Assessment Project: Riverside Component. 1971-72 Annual Report. ed. Alfredo Castaneda, Manuel Ramirez, and Leslie Harold, Riverside, Cal.: Systems and Evaluations in Education, 1972.

Covello, L. The Social Background of the Italo-American Child. Leiden, Netherlands: Brill Company, 1967.

Cronback, L. J. Essentials of Psychological Testing. New York: Harper and Row, 1970.

Cubberley, E. P. Public Education in the United States. Cambridge, Mass.: Houghton Mifflin Co., 1919. Revised 1934.

Dale, F. S. Language Development, Structure and Function. Hinsdale, Ill.: Dryden, Inc., 1972.

Dewey, J. Experience in Education. New York: Colber Macmillian Publishers, 1973.

Dewey, J. "My Pedagogic Creed." The World of the Child. Introduction by Toby Talbot. New York: Anchor Books, 1968.

Educational Neglect of Mexican American Students in the Lucia Mar Unified School District, Pismo Beach, California. A report of the California State Advisory Committee to the United States Commission on Civil Rights, Jan. 1973.

El Boricua: The Puerto Rican Community in Bridgeport and New Haven. A report of the Connecticut State Advisory Committee to the United States Commission on Civil Rights, Jan. 1973.

Engle, P. L. "The Use of the Vernacular Languages in Education: Revisited." Chicago: University of Illinois at Chicago, May 1973.

Ervin-Tripp, S. "Structure and Process of Language Acquisition." Monograph Series in Languages and Linguistics. 21st. Annual Round Table. ed. James E. Alatis. Washington, D.C: Georgetown University Press, 1970.

Eson, M. E. Psychological Foundations of Education. New York: Holt, Rinehart and Winston, Inc., 1972.

Fasold, R. and W. Wolfram. The Study of Social Dialects in American English. Englewood Cliffs, N.J.: Prentice-Hall, 1974.

Finocchiaro, M. Teaching English as A Second Language, revised and enlarged, (New York: Harper & Row 1969).

Finocchiaro, M. "Teaching English to Speakers of Other Languages: Problem and Priorities." The English Record. 21:4, 1971.

Finocchiaro, M. and P. King. Bilingual Readiness in Earliest School Years. A Curriculum Demonstration Project. U.S. Office of Education, Dec. 1966.

Fishman, J. A., R. L. Cooper, R. Ma et al. Bilingualism in the Barrio. The Hague, Netherlands: Mouton and Co., 1971.

Fishman, J. A. and J. Lovas. "Bilingual Education in A Sociolinguistic Perspective." The Language Education of Minority Children. ed. Bernard Spolsky. Rowley, Mass.: Newbury House, 1972.

Francis, N. The Structure of American English. New York: The Ronald Press Co., 1958.

Gaarder, B. "Pedagogical and Other Implications of Bilingual Education." Unpublished paper prepared for the Puerto Rican Legal Defense and Education Fund, July 1974.

Glaser, N. and D. P. Moynihan. Beyond the Melting Pot. Cambridge, Mass.: The MIT Press and Harvard University Press, 1963.

Glaser, R. "Instructional Technology and The Measurement of Learning Outcomes." American Psychologist. vol. 18, 1963.

Gleason, H. A. An Introduction to Descriptive Linguistics. New York: Holt, Rinehart, and Winston. Revised edition, 1966.

Goodman K. S. and O. S. Niles. Reading Process and Program. Champaign, Ill.: Commission of the English Curriculum. National Council of Teachers of English, 1970.

Gordon, E. W. and D. Wilkerson. Compensatory Education for the Disadvantaged. New York: College Entrance Examination Board, 1966.

Grant, M. The Passing of the Great Race in America. New York: Scribner's Sons, 1916.

Greer, C. Cobweb Attitudes. New York: Columbia University Press, 1970.

Guide to Title VIII ESEA Bilingual Bicultural Projects in the United States, 1973-74 (Austin, Tex.: Dissemination Center for Bilingual Bicultural Education.

Handbook for Language Arts. Bureau for Curriculum Development. Board of Education for the City of New York, 1966. Reprinted 1968.

Handlin, O. Immigration as a Factor in American History. New York: Prentice-Hall, Inc., 1959.

Hartmann, E. G. The Movement to Americanize the Immigrant Language in the Columbia University Press, 1948.

Haugen, E. Bilingualism, Language Contact, and Immigrant Language in the United States: A Research Report 1956-1970, Boylston Hall, Harvard University, stenciled version. To appear in Current Trends in Linguistics. ed. Thomas A. Sebook. vol. 10. The Hague: Mouton.

Hearing before U.S. Commission on Civil Rights. New York. Feb. 14-15, 1972.

Hearing before U.S. Commission on Civil Rights. Phoenix,Ariz. Nov. 17, 1972.

Hearing before U.S. Commission on Civil Rights. San Antonio, Tex., Dec. 9-14, 1968.

Heilman, A. Principles and Practice of Teaching Reading. Columbus, Ohio.: Charles E. Merrill Publishing Co., 1967.

Hymes, D. "Bilingual Education: Linguistic v. Sociolinguistic Bases." *Monograph Series on Languages and Linguistics 21st Round Table*. Washington, D.C.: Georgetown University Press, 1970.

Ide, G. G. "Spoken Language an Essential Tool." *The Psychological Clinic*. May 1920.

In Search of a Better Life--The Education and Housing Problems of Puerto Ricans in Philadelphia. A report of the Pennsylvania State Advisory Committee to the United States Commission on Civil Rights. Jan. 1974.

Interaction Analysis: Theory, Research and Application. ed. Edmund Amidon and John B. Hough. Reading, Mass.: Addison Wesley, 1967.

John, V. P. "Sociolinguistic Perspectives and Education." *Monograph Series on Languages and Linguistics. 23rd Annual Round Table*. ed. Roger Shuy. Washington, D.C.: Georgetown University Press, 1973.

John, V. P. and V. M. Horner. *Early Childhood Bilingual Education Project*. Modern Language Association, 1971.

Kazamias, A. M. and B. G. Massiales. *Traditions and Change in Education: A Comparative Study*. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1965.

Kjolseth, R. "Bilingual Education Programs in the United States: For Assimilation or Pluralism?," *The Language Education of Minority Children*. Rowley, Mass.: Newbury House . 1972.

Klausmeir, H. J., E. S. Ghatala, and D. A. Fayer. *Conceptual Learning and Development*. New York: Academic Press, Inc., 1974.

Kopan, A. T. "Melting Pot: Myth or Reality?" *Cultural Pluralism*. ed. Edgar G. Epps. Berkeley, Cal.: McCutchan Publishing Corporation, 1974.

Lambert, W. E. and R. C. Gardner. *Attitudes and Motivation in Second Language Learning*. Rowley, Mass.: Newbury House, 1972.

Lambert, W. E. and G. R. Tucker. *Bilingual Education of Children*. Rowley, Mass.: Newbury House, 1972.

Language Loyalty in the United States. ed. Joshua A. Fishman. The Hague: Mouton and Co.. 1966.

Lavatelli, C. S. *Piaget's Theory Applied to an Early Childhood Curriculum.* Boston: Center for Media Development, Inc., 1970.

Leibowitz, A. H. Educational Policy and Political Acceptance--The Imposition of English as the Language of Instruction in American Schools. Washington, D.C.: Center for Applied Linguistics, 1970.

Leopold, W. F. Speech Development of a Bilingual Child, 4 vols. Evanston, Ill.: Northwestern University Press, 1939.

Mackey, W. F. Bilingual Education in a Binational School. Rowley, Mass.: Newbury House, June 1972.

Macnamara, J. Bilingualism and Primary Education: A Study of Irish Experience. Edinburgh, Scotland: Edinburgh University Press, 1966.

Macnamara, J. "The Bilingual's Linguistic Performance - A Psychological Overview." Journal of Social Issues, vol. 23, no. 2, 1967.

Macnamara, J. "The Effects of Instruction in a Weaker Language." Journal of Social Issues. vol. 23, no. 2, 1967.

Manuel, H. T. "The Education of Mexican American and Spanish-speaking Children in Texas." Austin, Tex.: University of Texas Fund for Research in the Social Sciences, 1930. Reprinted in Education and the Mexican American. New York: Arno Press, 1974.

Marckwardt, A. H. "English as A Second Language and English as a Foreign Language," Publications of the Modern Language Association. 78: 2, 1963.

McWilliams, C. North From Mexico. New York: Greenwood Press, 1968.

Miller, S. M. "Dropouts -- A Political Problem." The School Dropout ed. Daniel Schreiber. Washington, D.C.: The National Education Association. Jan. 1964.

Modiano, N. "National or Mother Language in Beginning Reading. A Comparative Study." Research in Teaching English. 1968.

Moulton, W. G. A Linguistic Guide to Language Learning. Minasha, Wis.: George Banta Co., Inc., 1966.

National Education Association. "Statistical Projection of Need for Spanish-Speaking Teachers, Fifty States and 18 Leading Cities." Paper presented before the Albuquerque National Bilingual Institute: A Relook at Tucson. Washington, D.C.: National Education Association. Nov. 30, 1973.

Ney, James W. "Towards a Synthetization of Teaching Methodologies for TESOL," TESOL Quarterly, vol. 7, no. 1, Mar. 1973.

Ohannessian, S. "The Language Problems of American Indian Children," The Language Education of Minority Children. Rowley, Mass.: Newbury House, 1972.

Ortego, P. D. "Some Cultural Implications of a Mexican American Border Dialect of American English." Studies in Linguistics. vol. 21. 1969-70.

Osterberg, T. Bilingualism and the First School Language. Vasterbottens Tryckeri AB-Umea, 1961.

Padilla, A. M. and R. A. Ruiz. Latino Mental Health, A Review of Literature. Washington, D.C.: U.S. Government Printing Office, 1973.

Paulston, D. B. Implications of Language Learning Theory for Language Planning. Papers in Applied Linguistics, Bilingual Education Series: I. Arlington, Va.: Center for Applied Linguistics, 1975.

Peal, E. and W. E. Lambert. "The Relation of Bilingualism to Intelligence." Psychological Monographs: General and Applied. vol. 76, no. 27, 1962.

Perceiving, Behaving, Becoming: A New Focus for Education. Prepared by Association for Supervision and Curriculum Development (ASCD) 1962 Yearbook Committee, Arthur W. Combs, Chairman. Washington, D.C.: ASCD, 1962.

Petacco, A. Joe Petrosino. New York: Macmillan Co., 1974.

Philips, S. "Acquisition of Rules for Appropriate Speech Usage," Monograph Series of Languages and Linguistics. 21st Annual Round Table. Washington, D.C.: Georgetown University Press, 1970.

Prescott, D. Emotion and the Educative Process. Washington, D.C.: American Council on Education, 1938.

Ramirez, M. "Current Education Research. The Basis for a New Philosophy for Educating Mexican Americans." University of California, Multi-Lingual Assessment Project. Riverside, Cal., 1972.

Reporter's Transcript of Proceedings before the California State Advisory Committee to the U.S. Commission on Civil Rights. Civil Rights Concerns of Asian Americans. San Francisco, Cal., June 22-23, 1973.

Repplier, A. "Americanism," The Atlantic Monthly. Mar. 1916.

Rodgers, C. R. On Becoming a Person. Boston: Houghton Mifflin Co., 1961.

Samuda, R. J. "Racial Discrimination Through Mental Testing: A Social Critic's Point of View." ERIC Information Retrieval Center on the Disadvantaged Bulletin. no. 42. Teachers College, Columbia University. May 1973.

Savignon, S. J. Communicative Competence: An Experiment on Foreign-Language Teaching. vol. 12, Language and the Teacher: A Series in Applied Linguistics. Philadelphia: The Center for Curriculum Development, Inc., 1972.

Saville, M. and R. Troike. Handbook of Bilingual Education. Washington, D.C.: Teachers of English to Speakers of Other Languages, 1973.

Saville-Troike, M. *Bilingual Children, A Resource Document*. Papers in Applied Linguistics, Bilingual Education Series: II. Prepared for Child Development Associate Consortium, Inc., Arlington, Va.: Center for Applied Linguistics, 1975.

Saville-Troike, M. "From Melting Pot to Salad Bowl: The Promise and Reality of Multicultural Education." Keynote speech for the New York ESL Bilingual Education Association Convention. Syracuse, N.Y., Oct. 19, 1974.

Saville-Troike, M. *TESOL-Today: The Need for New Directions.* Speech presented for the New York ESL Bilingual Education Association Convention. Syracuse. N.Y., Oct. 1974.

Scriven, M. "The Methodology of Evaluation." *Perspectives of Curriculum Evaluation*, ed. Ralph W. Tyler, Robert M. Gagne and Michael Scriven. Chicago: Rand McNally, 1968.

Secota, K. E. "A Comparative Study of 100 Italian Children at the Six Year Level." *Psychological Clinic*. vol. 16, 1925.

Seelye, N. R., E. De Weffer, and K. Balasubramonian "Do Bilingual Education Programs Inhibit English Language Achievement? A Report on an Illinois Experiment." Paper presented at the Seventh Annual Convention of Teachers of English to Speakers of Other Languages. San Juan, Puerto Rico, 1973.

Shuy, R. and R. Fasold. *Teaching Black Children to Read*. Washington, D.C.: Center for Applied Linguistics, 1969.

Slobin, D. I. *Psycholinguistics*. Glenview, Ill.: Scott, Foresman, and Company, 1971.

Smith, B. O., W. O. Stanley, and J. H. Shores. *Fundamentals of Curriculum Development*. New York: World Book Company, 1957.

Spache, G. D. *The Teaching of Reading*. Bloomington, Ind.: Phi Delta Kappa, Inc., 1972.

Spolsky, B. "Language Testing: The Problem of Validation," *TESOL Quarterly*. vol. 2, 1968.

Spolsky, B. "Speech Communities and Schools," *TESOL Quarterly*, vol. 8, no. 1, Mar. 1974.

Stufflebeam, D. "Evaluation as Enlightenment for Decision Making" in *Improving Educational Assessment and an Inventory of Measures of Affective Behavior*. ed. W. H. Beatty. Washington, D.C.: Association for Supervision and Curriculum Development, NEA, 1969.

Taba, H. *The Foundations of Curriculum Development: Theory and Practice*. New York: Harcourt, Brace, & Wald, 1962.

Texas Education Agency. Migrant and Preschool Programs. "Performance Objectives Pilot Project on Oral Language." Austin, Tex. 1974.

The Schools of Guadalupe...A Legacy of Educational Oppression. A report of the California State Advisory Committee to the United States Commission on Civil Rights Apr. 1973.

The Use of Vernacular Languages in Education. Monographs on Fundamental Education, VIII. Paris: UNESCO, 1953.

Tucker, G. R. "An Alternate Days Approach to Bilingual Education." Monograph Series on Languages and Linguistics. 21st Annual Round Table. ed. James Alatis. Washington, D.C.: Georgetown University Press, 1970.

Ulibarri, H. Educational Needs of the Mexican American. Prepared for the National Conference on Educational Opportunities for Mexican Americans, on Rural Education and Small Schools.

U.S. Bureau of the Census. Department of Commerce. 1930 Census of Population, Occupations -- General Report.

U.S. Bureau of the Census. Department of Commerce. PC(1)-C1. 1970 Census of Population: General Social and Economic Characteristics -- United States Summary. June 1972.

U.S. Bureau of the Census. Department of Commerce. PC(2)-1F. 1970 Census of Population: Subject Reports--American Indians. June 1973.

U.S. Bureau of the Census. Department of Commerce. PC(2)-1F. 1970 Census of Population: Subject Reports--Japanese, Chinese, and Filipinos in the United States. June 1973.

U.S. Bureau of the Census. Department of Commerce. PC(2)-1E. 1970 Census of Population: Subject Reports--Puerto Ricans in the United States. June 1973.

U.S. Bureau of the Census. Department of Commerce. PC(2)-1C. 1970 Census of Population: Subject Reports--Persons of Spanish Origin. June 1973.

U.S. Commission on Civil Rights. Counting the Forgotten. Apr. 1974.

U.S. Commission on Civil Rights. The Mexican American Education Study, Reports 1-6. Apr. 1971 - Feb. 1974.

U.S. Commission on Civil Rights. The Southwest Indian Report. May 1973.

U.S. Department of Health, Education, and Welfare. A Process Evaluation of the Bilingual Education Program, Title VII, Elementary and Secondary Education Act. vol. 1. Prepared by Development Associates, Inc. for the U.S. Office of Education, Dec. 1973.

U.S. Immigration and Naturalization Service. Department of Justice. 1973 Annual Report of Immigration and Naturalization. Immigration by Country, for Decades 1820-1973.

Weinreich, U. Languages in Contact. Publications of the Linguistic Circle. no. 1. New York.

Whipple, G. "The Concept of Reading Readiness in the United States of America." Reading Instruction, an International Forum. ed. Marian Jenkinson. International Reading Association, 1967.

Williams, F. "Language Attitudes and Social Change." Language and Poverty. ed. Frederick Williams. Chicago: Markham Publishing Co., 1970.

Williams, F., J. R. Whitehead, and L. M. Miller. Attitudinal Correlates of Children's Speech Characteristics. U.S. Office of Education. U.S. Department of Health, Education, and Welfare. Austin, Tex.: Austin Center for Communications Research, University of Texas, 1971.

Willink, E. W., "Bilingual Education in Navajo Children," Bilingualism in the Southwest, ed. Paul Turner. Tucson: University of Arizona Press, 1973 .

Wysocki, M. R. and T. R. Sipla. "Classroom Applications of Reading Research." Interpreting Language Arts Research for the Teacher. ed. Harold G. Shane, James Walden, and Ronald Green. Washington, D.C.: Association for Supervision and Curriculum Development, NEA, 1971.

Zintz, M. What Classroom Teachers Should Know About Bilingual Education. Albuquerque, N.M.: University of New Mexico, Mar. 1969.